

An Bord Pleanála



PLANNING AND DEVELOPMENT ACTS 2000 TO 2017

Clare County Council

Planning Register Reference Number: P17/237

An Bord Pleanála Reference Number: ABP-300590-18

Appeal by John Madden of Glencairn House, Hermitage, Ennis, County Clare and by other and by Woodhaven Developments Limited care of Cyril O'Reilly Design Limited of Parting Glass, Quin, County Clare against the decision made on the 7th day of December, 2017 by Clare County Council to grant subject to conditions a permission to the said Woodhaven Developments Limited in accordance with plans and particulars lodged with the said Council.

Proposed Development: Development consisting of the following (1) demolition of an existing dwelling house and garage, (2) the construction of 39 number two storey dwelling houses and three number single storey dwelling houses, (3) the provision of a foul pumping station and associated rising main to existing foul sewer, (4) retire existing 38kv overhead lines and associate poles within the proposed development and erect two number triple pole 38kv cable end poles arrangement as per ESB internal drawings PG 567-D 020-070-001-00 at the northern and southern boundary of the site and (5) all ancillary site works and connection to public services at Ballymacaula, Drumbiggle, Ennis, County Clare, as amended by the further public notice received by the planning authority on the 29th day of September, 2017.

Decision

GRANT permission for the above proposed development in accordance with the said plans and particulars based on the reasons and considerations under and subject to the conditions set out below.

Matters Considered

In making its decision, the Board had regard to those matters to which, by virtue of the Planning and Development Acts and Regulations made thereunder, it was required to have regard. Such matters included any submissions and observations received by it in accordance with statutory provisions.

Reasons and Considerations

Having regard to the zoning objectives for the area and the pattern of development in the area, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities of the area or of property in the vicinity and would be acceptable in terms of traffic safety, public health and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars submitted to the planning authority on the 25th day of September 2017, and on the 10th day of November 2017, and by the further plans and particulars received by An Bord Pleanála on the 6th day of February 2018, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. The sections of garden within the Noise Control Buffer Zone associated with Houses numbers 13 and 21 shall be re classified as public open space and shall not form part of the private open spaces of the houses. The public open space shall include a pedestrian pathway linking the open space to the west with the open space adjoining the R474. Furthermore, Houses numbers 13 and 21 shall be modified to address the new public open space in terms of providing passive surveillance. Revised plans shall be submitted to, and agreed in writing with, the planning authority prior to commencement of works.

Reason: In the interest of permeability and residential amenity.

3. The internal noise levels, when measured at the windows of the proposed development, shall not exceed:
- (a) 35 dB(A) LAeq during the period 0700 to 2300 hours, and
 - (b) 30 dB(A) LAeq at any other time.

A scheme of noise mitigation measures, in order to achieve these levels, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The agreed measures shall be implemented before the proposed dwellings are made available for occupation.

Reason: In the interest of residential amenity.

4. Details of the materials, colours and textures of all the external finishes to the proposed dwellings shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Roof colour shall be blue-black, black, or dark grey in colour only (including ridge tiles).

Reason: In the interest of visual amenity.

5. Water supply and drainage arrangements, including the attenuation and disposal of surface and storm water, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health.

6. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Provision shall be made by the developer for electrical connections outside all the proposed houses, to facilitate electrical charging of vehicles.

Reason: In the interest of visual and residential amenity.

7. Site development and building works shall be carried only out between the hours of 08.00 to 18.00 Mondays to Fridays inclusive, between 08.00 to 13.00 on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: To safeguard the amenities of property in the vicinity.

8. The hedgerow identified for retention shall be protected during construction in accordance with the tree protection measures outlined in the submitted plans and particulars. All service pipes shall be so routed as to avoid the root spreads of the trees identified for retention.

Reason: To safeguard the use of the stone wall and hedgerow as potential bat roosting sites.

9. All boundary treatments shall be in accordance with those indicated in submitted documentation.

Reason: In the interests of residential and visual amenity, and to ensure the provision by the developer of durable boundary treatment.

10. The internal road network serving the proposed development including turning bays, junctions, parking areas, footpaths and kerbs shall comply with the detailed standards of the planning authority for such road works for taking in charge by the local authority.

Reason: In the interest of amenity and of traffic and pedestrian safety, and to facilitate the eventual taking in charge of the development, following its completion, by the local authority.

11. Public lighting shall be provided in accordance with a scheme, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. All lighting, as approved by the planning authority, shall be provided prior to the making available for occupation of any house.

Reason: In the interest of amenity and public safety.

12. The areas of public open space shown on the lodged plans shall be reserved for such use, and shall be maintained by the developer as such until taken in charge by the local authority. These areas shall be landscaped in accordance with the landscaping scheme in the plans and particulars submitted. The landscaping scheme shall be implemented before any of the dwellings are made available for occupation.

Reason: To ensure the satisfactory development of the public open space areas and their continued use for this purpose.

13. Proposals for an estate name, house numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all estate and street signs, and house numbers, shall be provided in accordance with the agreed scheme. The proposed name shall be based on local historical or topographical features, or other alternatives acceptable to the planning authority. No advertisements/marketing signage relating to the name of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name.

Reason: In the interest of urban legibility, and to ensure the use of locally appropriate place names for new residential areas.

14. Prior to commencement of development, the applicant or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the provision of social and affordable housing in accordance with the requirements of section 96 of the Planning and Development Act 2000, as amended, unless an exemption certificate shall have been applied for and been granted under section 97 of the Act, as amended. Where such an agreement is not reached within eight weeks from the date of this order, the matter in dispute (other than a matter to which section 97(7) applies) may be referred by the planning authority or any other prospective party to the agreement to An Bord Pleanála for determination.

Reason: To comply with the requirements of Part V of the Planning and Development Act 2000, as amended, and of the housing strategy in the development plan for the area.

15. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion and maintenance until taken in charge by the local authority of roads, footpaths, watermains, drains, public open space and other services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion or maintenance of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

Reason: To ensure the satisfactory completion and maintenance of the development until taken in charge.

16. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

17. Prior to the commencement of development, the developer shall pay a contribution of €227,509 (two hundred and twenty seven thousand and five hundred and nine euro) to the planning authority in respect of public infrastructure and facilities benefitting development in the area of the planning authority, that is provided for or intended to be provided by or on behalf of the authority in accordance with the terms of the development contribution scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to the commencement of development. At the time of payment, the contribution shall be subject to any applicable adjustment in accordance with the relevant provisions of the planning authority's development contribution scheme in place at the time of payment. Any contributions owing post commencement of development will be subject to interest penalties.

Reason: It is considered appropriate that the development should contribute towards the cost of public infrastructure and facilities benefitting the development, as provided for in the Council's prevailing Development Contribution Scheme, made in accordance with Section 48 of the Planning and Development Act 2000 as amended, and that the level of contribution payable should be adjusted at a rate specified in that scheme”

18. Before development commences, a Special Development Contribution shall be paid to the planning authority as a special contribution towards the improvements of public lighting facilities which are necessary to facilitate the development of the site. The contribution payable shall be based on the rate applicable at the time of payment and not the rate in existence when permission is granted. The amount of the development contribution is set out below and is subject to annual revision with reference to the Wholesale Price Index (Building and Construction) and in accordance with the terms of the Council's Development Contribution Scheme. The amount is currently €36,498.67 (thirty six thousand and four hundred and ninety eight euro and 67 cents).

Reason: In the interests of the proper planning and sustainable development of the area and in accordance with Section 48(2)(c) of the Planning and Development Act 2000, as amended.

19. Before development commences, a Special Development Contribution shall be paid to the planning authority as a special contribution towards the improvements of the public footpaths to Cahercalla Road from Circular Road which are necessary to facilitate the development of the site. The contribution payable shall be based on the rate applicable at the time of payment and not the rate in existence when permission is granted. The amount of the development contribution is set out below and is subject to annual revision with reference to the Wholesale Price Index (Building and Construction) and in accordance with the terms of the Council's Development Contribution Scheme. The amount is currently €34,965.62 (thirty four thousand and nine hundred and sixty five euro and 62 cents).

Reason: In the interests of the proper planning and sustainable development of the area and in accordance with Section 48(2)(c) of the Planning and Development Act 2000, as amended.

20. Before development commences, a Special Development Contribution shall be paid to the planning authority as a special contribution towards the improvements of traffic calming measures on Circular Road which are necessary to facilitate the development of the site. The contribution payable shall be based on the rate applicable at the time of payment and not the rate in existence when permission is granted. The amount of the development contribution is set out below and is subject to annual revision with reference to the Wholesale Price Index (Building and Construction) and in accordance with the terms of the Council's Development Contribution Scheme. The amount is currently €10,133.97 (ten thousand and one hundred and thirty three euro and 97 cents).

Reason: In the interests of the proper planning and sustainable development of the area and in accordance with Section 48(2)(c) of the Planning and Development Act 2000, as amended.

**Member of An Bord Pleanála
duly authorised to authenticate
the seal of the Board.**

Dated this day of 2018