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**Planning and Development Acts 2000 to 2018**

**Planning Authority: Cork County Council**

**Planning Register Reference Number: 17/06722**

**Appeal** by Jonathan and Mandy Green of 1 Clyda Court, Mallow, County Cork and by Jerry and Breda Walsh of 5 Clyda Court, Quartertown, Mallow, County Cork against the decision made on the 30<sup>th</sup> day of July, 2018 by Cork County Council to grant subject to conditions a permission to DNR Homes Limited care of Butler O'Neill Total Planning Solutions of Thompson House, MacCurtain Street, Cork in accordance with plans and particulars lodged with the said Council:

**Proposed Development:** Construction of residential development of six number residential units. The proposed development consists of the construction of six number three bedroom semi detached dwellings. Vehicular access is proposed off Clyda Court to the north of the site. Permission is sought for the development outlined including, but not limited to, landscaping, boundary treatments, car parking and all ancillary site development works, all on a site off Clyda Court, Quartertown Lower, Mallow, County Cork.

## **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 established residential zoning objective for the site as set out in the Mallow Town Development Plan 2010, 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 residential property in the vicinity, would not adversely affect the setting and character of either Quartertown House which is a protected structure and the Mill Complex which is a recorded monument, and would be acceptable in terms of traffic safety 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 5<sup>th</sup> day of December, 2017, the 9<sup>th</sup> day of February 2018 and the 18<sup>th</sup> day of May 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. House Number1/Block A shall be omitted and the site area shall be incorporated into the adjacent paved area. Revised drawings showing compliance with this requirement shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development.

**Reason:** In the interest of visual amenity and in order to respect the setting of the adjacent protected structure and recorded monument.

3. Details of the materials, colours and texture 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.

**Reason:** In the interest of visual amenity.

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

**Reason:** In the interest of public health.

5. The internal road network serving the proposed development, including turning bays, junctions, parking areas, footpaths and kerbs shall comply with the details standards of the planning authority for such road works.

**Reason:** In the interest of amenity and of traffic and pedestrian safety.

6. The entrance to the proposed development from the R619 shall be resurfaced for a distance of 10 metres from the road edge and the road markings shall be carried out in accordance with the detailed standards of the planning authority for such works prior to the occupation of any dwelling.

**Reason:** In the interest of road and public safety

7. 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. Such lighting shall be provided prior to the making available for occupation of any house.

**Reason:** In the interests of amenity and public safety.

- 8 All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development.

**Reason:** In the interest of visual and residential amenity.

9. (1) All screen walls and boundary walls within the proposed development shall be constructed and finished in accordance with the details submitted to the planning authority on the 18th May 2018.
- (2) Revised plans delineating the proposed boundary wall treatment in the north-eastern corner of the site shall be submitted to the planning authority for written agreement prior to commencement of development.

**Reason:** In the interest of visual and residential amenity

10. Proposals for an estate/street name, housing 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. No advertisements/marketing signage relating to the name(s) of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name(s).

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

- 11 The areas of public open space shown on the lodged plans shall be reserved for such use. These areas shall be soiled, seeded, and landscaped in accordance with the landscaping scheme submitted to the planning authority on the 9<sup>th</sup> day of February, 2018. Additional screen planting shall be provided in the north-east corner of the site. This work shall be completed before any of the dwellings are made available for occupation and shall be maintained as public open space by the developer until taken in charge by the local authority.

**Reason:** In order to ensure the satisfactory development of the public open space areas, and their continued use for this purpose.

- 12 The riparian zone along the Quartertown Stream bounding the site to the west shall be managed in accordance with the Landscape Treatment Report submitted to the planning authority on the 18th day of May, 2018.

**Reason:** In order to ensure the satisfactory protection of the riparian zone.

- 13 A plan, containing details for the management of waste (and, in particular, recyclable materials) within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials within each house plot shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the waste shall be managed in accordance with the agreed plan.

**Reason:** To provide for the appropriate management of waste and, in particular recyclable materials, in the interest of protecting the environment.

- 14 All construction traffic shall be via lands to the east of the site and shall not be via Clyda Court at any time.

**Reason:** In the interest of protecting the residential amenities of existing property

- 15 Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours 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:** In order to safeguard the residential amenities of property in the vicinity.

- 16 A final, detailed, site specific Construction and Environmental Management Plan shall be submitted to, and agreed in writing with, the planning authority at least five weeks in advance of site clearance and commencement of site works.

**Reason:** To protect the environment during the construction phase and also to avoid impacts on water quality.

- 17 The developer shall facilitate the preservation, recording and protection of archaeological materials or features that may exist within the site. In this regard, the developer shall -

- (a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development,

- (b) employ a suitably-qualified archaeologist who shall monitor all site investigations and other excavation works, and
- (c) provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove.

In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.

**Reason:** In order to conserve the archaeological heritage of the site and to secure the preservation and protection of any remains that may exist within the site.

- 18 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.



- 19 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.

20. At least one month prior to commencement of development or at the discretion of the planning authority within such further period or periods of time as it may nominate in writing, the developer shall pay a special contribution of €12000 (one hundred and twenty thousand euro) to the planning authority, updated monthly in accordance with the Consumer Price Index from the date of grant of permission to the date of payment as a special contribution under section 48 (2)(c) of the Planning and Development Act 2000, in respect of specific exceptional costs not covered in the Council's General Contributions Scheme, in respect of works proposed to be carried out, for the provision of works to Mallow Bridge. The payment of the said contribution shall be subject to the following: -(a) where the works in question - (i) are not commenced

within 5 years of the date of payment of the contribution (or final instalment if paid by phased payment), (ii) have commenced but have not been completed within 7 years of the date of payment of the contribution (or final instalment if paid by phased payment), or (iii) where the Council has decided not to proceed with the proposed works or part thereof, the contribution shall, subject to paragraph (b) below, be refunded to the applicant together with any interest which may have accrued over the period while held by the Council; (b) where under subparagraphs (ii) or (iii) of paragraph (a) above, any local authority has incurred expenditure within the required period in respect of a proportion of the works proposed to be carried out, any refund shall be in proportion to those proposed works which have not been carried out; (c) payment of interest at the prevailing interest rate payable by the Council's Treasurer on the Council's General Account on the contribution or any instalments thereof that have been paid, so long and in so far as it is or they are retained unexpended by the Council.

**Reason:** It is considered reasonable that the developer should contribute towards the specific exceptional costs which are incurred by the planning authority which are not covered in the Development Contribution Scheme and which will benefit the proposed development.

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

**Dated this            day of            2019.**