



Planning and Development Acts 2000 to 2018

Planning Authority: Cork County Council

Planning Register Reference Number: 17/07165

Appeal by Concerned Residents care of Marita Murphy of “Sommerville”, Ballygroman Lower, Ovens, County Cork against the decision made on the 30th day of August, 2018 by Cork County Council to grant subject to conditions a permission to Denis O’Brien Developments (Cork) Limited care of McCutcheon Halley Planning of 6 Joyce House, Barrack Square, Ballincollig, County Cork in accordance with plans and particulars lodged with the said Council:

Proposed Development: Construction of 75 number dwellinghouses, 14 number residential serviced sites, a crèche and all associated ancillary development works including a roundabout at the entrance to the site at the junction of Killumney Road (L2216) and the Crossbarry Road (L2218); closure of existing vehicular entrance and provision of new vehicular entrance/access from new internal access road to serve the existing dwelling adjoining the eastern boundary of the site, parking, footpaths pedestrian crossings, lighting, foul and surface/storm water, drainage, landscaping and amenity areas at Ballygroman Lower, Killumney, Ovens, 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 provisions of the Cork County Development Plan 2014–2020 and the Blarney Macroom Municipal District Local Area Plan 2017, it is considered that, subject to compliance with the conditions set out below, the proposed development would accord with the inclusion of the site within the settlement boundary around Killumney/Ovens and its density and scale would be appropriate for the site’s location and compatible with the visual and residential amenities of the area. The proposed development would accord with relevant development standards. Traffic generated by the proposed development would be capable of being handled satisfactorily by means of a new access to the site, which would be provided in conjunction with the reconfiguration of the junction between Killumney Road and Crossbarry Road as a roundabout. An accompanying series of public footpaths would link the site to Killumney Village. Water supply and drainage arrangements would be satisfactory, provided a new public sewer is constructed between the site and Killumney Waste Water Treatment Plant and this plant is upgraded. The

proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

Appropriate Assessment

The Board completed an Appropriate Assessment Screening exercise in relation to the potential effects of the proposed development on European Sites, taking into account the nature, scale and location of the proposed development, the Inspector's report and submissions on file. In completing the screening exercise, the Board adopted the report of the Inspector and concluded that, by itself or in combination with other development in the vicinity, the proposed development would not be likely to have a significant effect on any European Site in view of the sites' conservation objectives, and that a Stage 2 Appropriate Assessment (and submission of a Natura impact statement) is not, therefore, required.

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 on the 1st day of May, 2018 and by the further plans and particulars submitted on the 3rd day of August 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 proposed development shall be amended as follows:
 - (a) The northern boundary wall to the site shall be finished in natural stone and it shall be 2.4 metres high.
 - (b) Elsewhere on the site, where boundary walls to gardens are publicly visible, they shall be finished in natural stone.
 - (c) The spare space underneath the staircases in the Type F dwellinghouses shall be made accessible and used for domestic storage.
 - (d) Construction stage plans of the continuous public footpath on the eastern side of the proposed roundabout and along the southern side of Killumney Road shall be prepared.
 - (e) Details of the finishing surfaces to be laid in the play areas and the equipment to be installed in these areas shall be prepared.

Revised drawings and details showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interests of visual amenity, development standards, and public safety.

3. No occupation of the dwellinghouses and no use of the creche shall commence until the waste water sewerage system for the site has been constructed and connected to the public sewerage system and commissioned.

Reason: In the interest of public health and in order to avoid pollution.

4. No occupation of the dwellinghouses and no use of the creche shall commence until the water supply system for the site has been constructed and connected to the public water mains and commissioned.

Reason: In the interest of public health.

5. 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.

6. The development shall be carried out on a phased basis, in accordance with a phasing scheme, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of any development. This scheme shall include the proposed creche and the public open space.

Reason: To ensure the timely provision of services, for the benefit of the occupants of the proposed dwellings.

7. The landscaping scheme shown on drawing number 17095/P/009, as submitted to the planning authority on the 3rd day of August, 2018, shall be carried out within the first planting season following substantial completion of external construction works.

Prior to the implementation of the landscaping scheme, it shall be detailed to make explicit -

- (a) which species, and how many of each species, would be planted as shown indicatively in this scheme, and

- (b) the species of existing trees and shrubs identified for retention.

Such details shall be submitted to, and agreed in writing with, the planning authority.

All planting shall be adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development or until the development is taken in charge by the local authority, whichever is the sooner, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

Reason: In the interest of residential and visual amenity.

8. (a) Prior to commencement of development, all trees, groups of trees, hedging and shrubs which are to be retained shall be enclosed within stout fences not less than 1.5 metres in height. This protective fencing shall enclose an area covered by the crown spread of the branches, or at minimum a radius of two metres from the trunk of the tree or the centre of the shrub, and to a distance of two metres on each side of the hedge for its full length, and shall be maintained until the development has been completed.
- (b) No construction equipment, machinery or materials shall be brought onto the site for the purpose of the development until all the trees which are to be retained have been protected by this fencing. No work shall be carried out within the area enclosed by the fencing and, in particular, there shall be no parking of vehicles, placing of site huts, storage compounds or topsoil heaps, storage of oil, chemicals or other substances, and no lighting of fires, over the root spread of any tree to be retained.

Reason: To protect trees and planting during the construction period in the interest of visual amenity.

9. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company or such other security as may be accepted in writing by the planning authority, to secure the protection of the trees on site and to make good any damage caused during the construction period, coupled with an agreement empowering the planning authority to apply such security, or part thereof, to the satisfactory protection of any tree or trees on the site or the replacement of any such trees which die, are removed or become seriously damaged or diseased within a period of three years from the substantial completion of the development with others of similar size and species. 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 secure the protection of the trees on the site.

10. No development shall take place until details of earthworks have been submitted to, and agreed in writing with, the planning authority. These details shall include the following:
 - (a) Soil and subsoil cross-sections.
 - (b) Plans and sections showing the proposed grading and mounding of land areas, including the levels and contours to be formed.
 - (c) The relationship of the proposed mounding to the existing vegetation and adjacent dwelling houses on the lands to the north of the site and the dwelling house adjacent on the eastern boundary of the site.

Development, including landscaping required by condition number 7 of this Order, shall be carried out in accordance with the approved earthworks plan.

Reason: In the interest of residential and visual amenity.

11. The areas of public open space shown on the lodged plans shall be reserved for such use and shall be soiled, seeded, and landscaped in accordance with the detailed requirements of the planning authority. This work shall be completed in accordance with the phasing plan referred to in condition number 6 of this Order. Public open space shall be maintained as such 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. 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.

13. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including noise management measures and off-site disposal of construction/demolition waste.

Reason: In the interest of amenities, public health and safety.

14. Details of the materials, colours and textures of all the external finishes to the proposed development shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

15. 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.

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

16. 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.

17. 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 interests of visual and residential amenity.

18. Proposals for an estate/street 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(s) 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(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.

19. The development hereby permitted shall be carried out and completed at least to the construction standards set out in the "Recommendations for Site Development Works for Housing Areas" issued by the Department of the Environment and Local Government in November 1998. Following completion, the development shall be maintained by the developer, in compliance with these standards, until taken in charge by the planning authority.

Reason: To ensure that the development is carried out and completed to an acceptable standard of construction.

20. 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 housing in accordance with the requirements of section 94(4) and section 96(2) and (3) (Part V) 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 96(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 of the area.

21. 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.

22. 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.

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

Dated this day of 2019.