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**Planning and Development Acts 2000 to 2018**

**Planning Authority: Cork County Council**

**Planning Register Reference Number: 18/05691**

**Appeal** by Camilla O'Connor and others care of Harrington O'Flynn Limited of 16 Roselane, Ballinacurra, Midleton, County Cork and by others against the decision made on the 21<sup>st</sup> day of November, 2018 by Cork County Council to grant subject to conditions a permission to 3dnr (Charleston) Limited care of HW Planning of 5 Joyce House, Barrack Square, Ballincollig, County Cork in accordance with plans and particulars lodged with the said Council:

**Proposed Development:** A residential development of 87 number two-storey dwelling houses, two number apartments, a 147.7 square metres crèche and all ancillary site development works. The proposed development consists of 21 number four bedroom detached houses, 25 number four bedroom semi-detached houses, 30 number three bedroom semi-detached houses, 11 number three bedroom townhouses and two number one bedroom apartments which are located on the first floor of the crèche building. The proposed development includes improvement works to the junctions of Dark Road/Bailick Road and Dark Road/R630, a new public footpath along the southern side of Dark Road and a pedestrian crossing on the R630. Access to the proposed development will be via a new entrance from Dark Road, with a

pedestrian access proposed to the R630, all at Castleredmond, Midleton, County Cork, as amended by the revised public notice received by the planning authority on the 25<sup>th</sup> day of October, 2018.

## **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 nature and scale of the proposed development, to the existing and permitted pattern of development in the vicinity of the site and to the residential zoning of the site, 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, would not adversely affect the character of the area, would be acceptable in terms of flood risk, waste disposal, access and traffic safety and would not, therefore, be contrary to 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 12<sup>th</sup> day of October, 2018 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. (1) The development shall be carried out on a phased basis, in accordance with a phasing scheme which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of any development.
- (2) The written agreement of Irish Water for connection shall be obtained prior to commencement of development, and the dwellings hereby permitted shall not be made available, by the developer, for occupation until such time as there is sufficient capacity available in the wastewater treatment plant.

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

3. Details of the materials, colours and textures of all the external finishes to the proposed residential units 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. The windows serving all bathrooms, en-suites and walk-in wardrobes shall be permanently fitted and maintained with obscured glass. The use of film is not permitted.

**Reason:** In the interest of the proper planning and sustainable development of the area

5. The areas of public open space shown on the lodged plans shall be reserved for such use. These areas shall be levelled, contoured, soiled, seeded and landscaped in accordance with the landscaping scheme submitted to the planning authority on the 29<sup>th</sup> day of June, 2018. 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.

6. Prior to commencement of development, the developer shall submit to, and agree in writing with, the planning authority full details of the proposed boundary treatment including rear and party dividing boundary treatments.

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

7. (1) 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.
- (2) The developer shall adhere to the principles of sustainable drainage designs (SUDS).

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

8. 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 interests of urban legibility and to ensure the use of locally appropriate place names for new residential areas.

9. The management and maintenance of the proposed development following its completion shall be the responsibility of a legally constituted management company, or of the local authority in the event of the development being taken in charge. Detailed proposals in this regard shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** To ensure the satisfactory completion and maintenance of this development.

10. (1) The proposed vehicular and pedestrian access points shall be designed in accordance with the Design Manual for Urban Roads and Streets (DMURS). Exact details shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.
- (2) The internal road network serving the proposed development, including turning bays, junctions, parking areas, footpaths and kerbs, shall be in accordance with the detailed standards of the planning authority for such works.
- (3) The proposed footpath to the southern side of Dark Road shall be constructed and completed in accordance with Phase 1 of the development.
- (4) All costs incurred by Cork County Council, including any repairs to the public road and services necessary as a result of development, shall be at the expense of the developer.

- (5) Footpaths shall be dished at road junctions in accordance with the requirements of the planning authority. Details of the locations and materials to be used in such dishing shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.
- (6) The roads and traffic arrangements serving the site (including signage) shall be in accordance with detailed requirements of the planning authority for such works and shall be carried out at the developer's expense. Details in this regard shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.
- (7) The materials used, including tactile paving, in any roads/footpaths provided by the developer shall comply with the detailed standards of the planning authority for such road works.

**Reason:** In the interests of pedestrian, cyclist and traffic safety.

11. Public lighting shall be provided in accordance with a scheme, which shall include lighting along pedestrian routes through open spaces, 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

12. (1) The construction of the development shall be managed in accordance with a Construction Environmental 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.
- (2) Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0900 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 the interests of public safety and residential amenity

13. 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.

14. The developer shall facilitate the archaeological appraisal of the site and shall provide for the preservation, recording and protection of archaeological materials or features which 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, and
- (b) employ a suitably-qualified archaeologist prior to the commencement of development. The archaeologist shall assess the site and monitor all site development works.

The assessment shall address the following issues:

- (i) the nature and location of archaeological material on the site, and
- (ii) the impact of the proposed development on such archaeological material.

A report, containing the results of the assessment, shall be submitted to the planning authority and, arising from this assessment, the developer shall agree in writing with the planning authority details regarding any further archaeological requirements (including, if necessary, archaeological excavation) prior to commencement of construction works.

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 area and to secure the preservation (in-situ or by record) and protection of any archaeological remains that may exist within the site.

15. 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 current Development Plan for the area.

16. 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.

17. 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.

18. The developer shall pay the sum of €71,600(seventy one thousand, six hundred euro) (updated at the time of payment in accordance with changes in the Wholesale Price Index – Building and Construction (Capital Goods), published by the Central Statistics Office), to the planning authority as a special contribution under section 48 (2)(c) of the Planning and Development Act 2000, as amended, in respect of works to be carried out to facilitate (a) the construction of a new slip road to the Lakeview Roundabout, and (b) the construction of additional traffic calming measures on the Dark Road. This contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate. The application of indexation required by this condition 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.

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

**Dated this            day of            2019.**