



Planning and Development Acts 2000 to 2018

Planning Authority: Cork County Council

Planning Register Reference Number: 17/07272

Appeal by Michael and Anne Canty of Waterville House, Passage West, County Cork, by Kathleen O'Sullivan of The Lodge, Churchill, Passage West, County Cork, and by Clyda Eco Homes Limited care of HW Planning of 5 Joyce House, Barrack Square, Ballincollig, County Cork against the decision made on the 29th day of November, 2018 by Cork County Council to grant subject to conditions a permission to Clyda Eco Homes Limited in accordance with plans and particulars lodged with the said Council.

Proposed Development: A mixed use development consisting of (1) demolition of existing former school buildings on Main Street, including former school yard walls to corner with Chapel Square, outbuildings and temporary structures within the convent grounds, along with minor demolitions to rear of convent building, (2) construction of new town centre building on Main Street to comprise of two number shop units at ground with 17 number apartments over at first, second and third floor dropping to two floors over ground to Chapel Square, with parking to rear at ground floor level, (3) renovation and conversion of former convent building into 18 number apartments to include minor alterations to rear and side façades, reconstruction of derelict former chapel wing to south onto Convent Lane whilst retaining front façade, 18

number domestic bin stores to serve apartments in the convent building along with construction of bin store to south eastern side of the convent building, (4) construction of 13 number detached homes on Convent grounds, (5) provision of new vehicular entrance and access road to detached homes and convent from The Back Road, (6) modified vehicular entrance at Main Street to access town centre building, and (7) all associated ancillary development works including access roads, drainage, parking for 54 cars, footpaths and public amenity areas, all at the former Convent of Mercy, Main Street, Chapel Square, Chapel Lane and The Back Road, Pembroke, Passage West, 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 zoning objective for the site as set out in the Ballincollig Carrigaline Municipal District Local Area Plan 2017, the Cork County Development Plan 2014, the Project Ireland 2040 - National Planning Framework, the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (Cities, Towns & Villages), issued by the Department of the Environment, Heritage and Local Government in May, 2009, and the overall scale, design and height of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the visual amenities of the area or of property in the vicinity, would not have a detrimental impact on architectural heritage or the environment 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.

Appropriate Assessment Screening

The Board completed an Appropriate Assessment screening exercise in relation to the potential effects of the proposed development on designated European Sites, taking into account the nature, scale and location of the proposed development within a zoned and serviced urban area, the Appropriate Assessment Screening Statement submitted with the application, the Inspector's report and the 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 conservation objectives of such sites, and that a Stage 2 Appropriate Assessment 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 3rd day of January, 2018, the 9th day of July, 2018, the 18th day of July, 2018 and the 2nd day of November 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 use of the proposed retail/commercial units shall be restricted to use which fall within Class 1 of Part 4 of Schedule 2 of the Planning and Development Regulations, 2001, as amended, and shall exclude uses such as betting office, take-away or stand-alone off-licence. Any other use shall require a separate grant of planning permission.

Reason: In the interest of proper planning and orderly development.

3. (a) A conservation expert shall be employed to manage, monitor and implement the works on the site and to ensure adequate protection of the retained and historic fabric during the works. In this regard, all permitted works shall be designed to cause minimum interference to the retained building and facades structure and/or fabric.

- (b) All repair works to the National Inventory of Architectural Heritage listed structures shall be carried out in accordance with best conservation practice as detailed in the application and the Architectural Heritage Protection Guidelines for Planning Authorities issued by the Department of Arts, Heritage and the Gaeltacht in 2011. Items that have to be removed for repair shall be recorded prior to removal, catalogued and numbered to allow for authentic reinstatement.

Reason: To ensure that the integrity of the retained structures is maintained and that the structures are protected from unnecessary damage or loss of fabric.

4. Details, including samples, of the materials, colours and textures of all the external finishes, signage and lighting 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.

5. Details of all external shopfronts, including signage, lighting and finishes, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of protecting the amenities of the Architectural Conservation Area.

6. Water supply and drainage arrangements, including the 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 and to ensure a proper standard of development.

7. All necessary measures shall be taken by the developer to prevent spillage or deposit of clay, rubble or other debris on adjoining roads during the course of the works.

Reason: To protect the amenities of the area.

8. Prior to commencement of development, the developer shall fully implement the proposals as set out in the 'IAS Management Plan', submitted to the planning authority on the 2nd day of November 2018, to remove and dispose of the invasive species on site. Full details, including timing, shall be submitted to and agreed in writing with the planning authority.

Reason: To ensure invasive species, which can damage buildings of other built structures and harm biodiversity, is properly and safely disposed of.

9. Public lighting shall be provided in accordance with a scheme, which shall include lighting along pedestrian routes through open space, 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 unit.

Reason: In the interests of amenity and public safety.

10. Boundary walls/fences shall be constructed in accordance with the details submitted on the 13th day of December 2017, unless otherwise agreed in writing with the planning authority. The existing stone wall on the western side boundary shall be retained and protection measures implemented in accordance with details submitted on the 2nd day of November, 2018.

Reason: In the interest of orderly development and residential amenity.

11. The areas of public open space shown on the lodged plans shall be reserved for such use and shall be levelled, contoured, soiled, seeded, and landscaped in accordance with the detailed requirements of the planning authority.

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

12. 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.

13. Proposals for an estate/street name, house/apartment 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/apartment numbers, shall be provided in accordance with the agreed scheme. No advertisements/marketing signage relating to the names of the development shall be erected until the developer has

obtained the planning authority's written agreement to the proposed names.

Reason: In the interest of urban legibility.

14. The vehicular accesses and the internal road 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.

15. A comprehensive landscaping scheme shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This scheme shall include the following: -

- (a) proposed locations of trees and other landscape planting in the development, including details of proposed species and settings;
- (b) detail of all boundary treatment, including dividing rear garden boundaries, and
- (c) the boundary treatment and landscaping shall be carried out in accordance with the agreed scheme.

Reason: In the interest of protecting the character of the area.

16. 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 suitability-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.

17. 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 hours of working, noise management measures and off-site disposal of construction/demolition waste.

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

18. The developer shall ensure that the car parking spaces for the residential units shall be sold off with the units and are not sold separately, or let, to avoid non-take up by residents. The developer shall also give an understanding in this respect, in writing, to be submitted to the planning authority prior to commencement of development.

Reason: In the interest of public safety and the proper planning and sustainable development of the area.

19. Each proposed apartment/house units shall be used as a single dwelling unit and shall not be subdivided in any manner or used as two or more separate habitable units.

Reason: To prevent unauthorised development.

20. Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the “Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects”, published by the Department of the Environment, Heritage and Local Government in July, 2006. The plan shall include details of waste to be generated during site clearance and construction phases, and details of the methods and locations to be employed for the prevention, minimisation, recovery and disposal of this material in accordance with the provision of the Waste Management Plan for the Region in which the site is situated.

Reason: In the interest of sustainable waste management.

21. (a) The communal open spaces, including hard and soft landscaping, car parking areas and access ways, communal refuse/bin storage and all areas not intended to be taken in charge by the local authority, shall be maintained by a legally constituted management company.
- (b) Details of the management company contract, and drawings/particulars describing the parts of the development for which the company would have responsibility, shall be submitted to, and agreed in writing with, the planning authority before any of the residential units are made available for occupation.

Reason: To provide for the satisfactory future maintenance of this development in the interest of residential amenity.

22. 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 87 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 part 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.

23. 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 watermains, drains 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.

24. 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.

Paul Hyde

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

Dated this day of 2019.