



Planning and Development Acts 2000 to 2018

Planning Authority: Cork County Council

Planning Register Reference Number: 18/05112

Appeal by Denis Murphy of Avondhu, Navigation Road, Mallow, County Cork against the decision made on the 25th day of February, 2019 by Cork County Council to grant subject to conditions a permission to SMD Property Group 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: Residential development at Navigation Road, Annabella (townland), Mallow, County Cork comprising (1) the construction of nine number dwelling units, (2) the refurbishment and reuse of the existing 'Hawthorn House' for residential use; (3) the alterations and conversion of adjoining outhouses to a granny flat; (4) the refurbishment of existing gate lodge for ancillary use (storage) to residential unit B3; (5) the re-routing and part undergrounding of the existing ESB line currently traversing the site; (6) the upgrading of the existing sewer line to the east of the property and (7) all associated ancillary development including pedestrian access, parking, landscaping and amenity areas and the removal of two number corrugated iron sheds. The proposed development consists of works to a protected structure, "Hawthorn House", Mallow Town Council Protected Structure

Reference number RPS46. (As amended by the further public notice received by the planning authority on the 21st day of December, 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 residential zoning objective for the site, the pattern of development in the area and the nature, design and scale 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 residential amenities of property in the vicinity, would not negatively impact on the protected structure and would be acceptable in terms of traffic safety and convenience and public health. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

Appropriate Assessment Stage 1

The Board considered the Screening Report for Appropriate Assessment, the Natura Impact Assessment and all the other relevant submissions and carried out both an appropriate assessment screening exercise and an appropriate assessment in relation to the potential effects of the proposed development on designated European sites. The Board agreed with the screening assessment and conclusion carried out in the Inspector's report that the Blackwater River (Cork/Waterford) Special Area of Conservation (Site Code: 002170), is the only European Site in respect of which the proposed development has the potential to have a significant effect.

Appropriate Assessment Stage 2

The Board considered the Natura impact statement and all other relevant submissions and carried out an appropriate assessment of the implications of the proposed development for a European Site, namely, the Blackwater River (Cork/Waterford) Special Area of Conservation (Site Code: 002170), in view of the site's conservation objectives. The Board considered that the information before it was adequate to allow the carrying out of an appropriate assessment.

In completing the appropriate assessment, the Board considered, in particular, the following:

- (i) the likely direct and indirect impacts arising from the proposed development both individually or in combination with other plans or projects,
- (ii) the mitigation measures which are included as part of the current proposal, and

- (iii) the conservation objectives for the European Sites.

In completing the appropriate assessment, the Board accepted and adopted the appropriate assessment carried out in the Inspector's report in respect of the potential effects of the proposed development on the aforementioned European Site, having regard to the site's conservation objectives.

In overall conclusion, the Board was satisfied that the proposed development, by itself or in combination with other plans or projects, would not adversely affect the integrity of the European Site, in view of the site's conservation objectives.

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 21st day of September, 2018 and the 14th day of December, 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. Works to the protected structure shall be carried out with the input of specialist expertise in the form of a conservation architect and shall be carried out in accordance with the requirements of the Architectural Heritage Protection Guidelines and any other advice issued by the Department of Arts, Heritage and the Gaeltacht.

Reason: To safeguard the special architectural interest of the proposed structure.

3. Prior to commencement of development, final details of the location and facilities to be provided in the neighbourhood play area, shall be submitted to, and agreed in writing with, the planning authority.

Reason: in the interest of residential amenity.

4. The landscaping scheme shown on drawing number 18227-2-101 Rev. A submitted to the planning authority by way of further information on the 21st day of September, 2018 shall be carried out prior to the making available by the developer of the new houses on the site.

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, 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 interests of residential and visual amenity.

5. The developer shall ensure that all construction methods and environmental mitigation measures set out in the Natura impact statement and associated documentation are implemented in full, save as may be required by conditions of this Order.

Reason: In the interest of protection of the environment.

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

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

7. Notwithstanding the exempted development provisions of the Planning and Development Regulations, 2001, and any statutory provision replacing or amending them, no development falling within Class 5 of Part 1 of the Second Schedule of those Regulations shall take place within the curtilage of any house.

Reason: In the interest of the visual amenities of the area.

8. 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.

Reason: In the interest of visual amenity.

9. 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 topographic 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 placenames for new residential areas.

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 roads works and shall comply with the Design Manual for Urban Roads and Streets issued by the Department of Transport, Tourism and Sport.

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

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.

Reason: In the interests of amenity and public safety.

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

Reason: In the interest of public health.

14. The development shall be carried out in accordance with the planning authority's taking in charge standards. It shall be maintained by the developer until taken in charge by the planning authority.

Reason: In the interest of orderly development.

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 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. At least one month before commencing 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 €9,000 (nine 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, in respect of specific exceptional costs not covered in the Council's General Constructions Scheme, in respect of works proposed to be carried out, for the provision of upgrade works to the Kennel Hill/N72 junction and the N20/N72 roundabout. The payment of the said contribution shall be subject to the following:

- (a) where the works in question -
 - (i) are not commenced within five years of the date of the contribution (or final instalment if paid by phased payment),
 - (ii) have commenced but have not been completed within seven 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 sub-paragraphs (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, and
- (c) payment of interest at the prevailing interest rate payable by the Council's Treasurer on the Council's General Account on the contribution of any instalments thereof that have been paid, so long and insofar as it is or they are retained unexpended by the Council.

Reason: It is considered appropriate that the developer should contribute towards these specific exceptional costs, for works which will benefit the proposed development.

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.

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

Dated this day of 2019.