



Planning and Development Acts 2000 to 2019

Planning Authority: Cork County Council

Planning Register Reference Number: 19/00011

Appeal by Tom McCarthy of 34 Meadow Way, South Cerney, Cirencester, Gloucestershire, England against the decision made on the 6th day of March, 2019 by Cork County Council to grant subject to conditions a permission to Clogheen Development Limited care of DMCA Consultants Limited of Marino Street, Bantry, County Cork in accordance with plans and particulars lodged with the said Council.

Proposed Development: Retention and completion of partially constructed two number detached dwellinghouses, permission for installation of two number individual on-site wastewater treatment systems, permission for realignment and widening of the adjacent L47039 public road and all associated site works at Faunmore, Kilcrohane, Bantry, 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

The site is located within the development boundary of Kilcrohane Village in the current West Cork Municipal District Local Area Plan 2017. Having regard to the development objectives for the site as set out in the Local Area Plan, to the planning history of the site, to the nature and topography of the site, to the revised proposal to provide individual proprietary wastewater treatment units with polishing filters on the site and to the revised proposals to improve sightlines at the entrance and to widen and realign the public road adjoining the site, it is considered that, subject to compliance with the conditions set out below, the proposed development would be in accordance with the policy objectives for the area, would not seriously injure the amenities of the area or of property in the vicinity, would be acceptable in terms of traffic safety and convenience and would not be prejudicial to public health. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

Conditions

1. The development shall be retained, carried out and completed in accordance with the plans and particulars lodged with the application, 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. (a) 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 1 or Class 3 of Schedule 2, Part 1 of those Regulations shall take place within the curtilage of the dwellinghouses hereby permitted without a prior grant of planning permission.

(b) Further subdivision of the site shall not take place without a further grant of planning permission.

Reason: In the interests of orderly development and to safeguard the amenities of the area.

3. Prior to commencement of development, the developer shall enter into a connection agreement with Irish Water in relation to the development.

Reason: In the interest of public health.

4. (a) The treatment plants and polishing filters for each dwelling shall be located, constructed and maintained in accordance with the details submitted to the planning authority on the 11th day of January 2019, and in accordance with the requirements of the document entitled “Code of Practice – Wastewater Treatment and Disposal Systems Serving Single Houses (p.e.<10)” – Environmental Protection Agency, 2009. No system other than the type proposed in the submissions shall be installed unless agreed in writing with the planning authority.
- (b) Certification by the system manufacturer that the system has been properly installed shall be submitted to the planning authority within four weeks of the installation of the system.
- (c) A maintenance contract for each of the treatment systems shall be entered into and paid in advance for a minimum of five years from the first occupancy of the dwellinghouse and thereafter shall be kept in place at all times. Signed and dated copies of the contract shall be submitted to, and agreed in writing with, the planning authority within four weeks of the installation of each unit.
- (d) Surface water soakaways shall be located such that the drain from the dwelling and paved areas of the site shall be diverted away from the location of the polishing filter.

- (e) Within three months of the first occupation of each of the dwellings, the developer shall submit a report from a suitably qualified person with professional indemnity insurance certifying that the proprietary effluent treatment system has been installed and commissioned in accordance with the approved details and is working in a satisfactory manner and that the polishing filter is constructed in accordance with the standards set out in the Environmental Protection Agency document.

Reason: In the interest of public health.

5. The external walls of the dwellinghouses shall be finished in a neutral coloured nap plaster render, using colours such as grey or off-white. The roof colour of the proposed houses shall be blue-black, black, dark brown or dark grey. The colour of the ridge tile shall be the same as the colour of the roof.

Reason: In the interest of visual amenity.

6. (a) One common entrance recess shall be formed to serve both houses and the entrance gates shall be recessed a minimum of four metres and not more than six metres from the edge of the public road. Wing walls serving the entrance shall be splayed at an angle of not less than 45 degrees and shall not exceed one metre in height.
- (b) A sight distance of 45 metres to the north and 62.8 metres to the south shall be provided from a centre point of the entrance 4.5 metres back from the public road edge. No vegetation or structure shall exceed 1 metre in height within the sight distance triangle.

- (c) The side walls and piers of the entrance and of any new road boundary shall be of local natural stone or sod and stone or an earth berm with hedge of indigenous species planted on top at 60 centimetres intervals.
- (d) Details of the treatment of the front boundary of the site shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interests of road safety and provide proper sight distances for emerging traffic.

- 7. (a) All surface water generated within the site boundaries shall be collected and disposed of within the curtilage of the site. No surface water from roofs, paved areas or otherwise shall discharge onto the public road or adjoining properties.
- (b) The access driveway to the proposed development shall be provided with adequately sized pipes or ducts to ensure that no interference will be caused to existing roadside drainage.
- (c) A corrie pipe drain shall be provided under the entrance from the public road and a concrete channel shall be provided along the entire road frontage of the site to accommodate roadside drainage.

Details of the roadside drainage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interests of traffic safety and to prevent pollution and flooding of the public road.

8. (a) The 10 metre wide buffer zone with the Kilcrohane River as shown on the submitted drawing number 013A Rev: A (Site Layout 1 plan) shall be maintained free of development at all times. Nothing shall be stored or placed within the fenced off sensitive area. The ground levels shall not be altered and the vegetation within the riparian buffer zone shall be retained as existing.
- (b) During the construction phase, a temporary line of fencing shall be erected along the buffer zone with the river before any equipment, machinery or materials are brought onto the site for the purposes of development and shall be maintained until all equipment, machinery and surplus materials have been removed from the site.

Reason: To protect sensitive habitats and species.

9. All public service cables for the development, including electrical and telecommunications cables, shall be located underground throughout the site.

Reason: In the interest of visual amenity.

10. 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 operations (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 access 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 excavation works. In default of agreement on any of these requirements, the matters 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-site or by record) and protection of any archaeological remains that may exist within the site.

11. The site shall be landscaped, using only indigenous deciduous plants and hedging species, in accordance with details which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The scheme shall include the following:
- (a) Contoured drawings to a scale no less than 1:500 showing –
 - A survey of all existing trees and hedging plants on the site, their variety and size, age and condition, together with proposals for their conservation or removal.
 - A continuous hedge of indigenous species (e.g. holly, hawthorn, beech or field maple) planted for the full length of the southern boundary, to the east of the entrance and of the eastern boundary.
 - (b) Specifications for mounding, levelling, cultivation and other operations associated with plant and grass establishment.
 - (c) Proposals for the protection of all existing and new planting for the duration of the construction works on site, together with proposals for adequate protection of new planting from damage until established.
 - (d) A timescale for implementation which shall provide for the planting to be completed before the dwellings are first made available for occupation.

Deciduous trees shall be planted at not less than 750 millimetres in height. Species to be used shall not include either cupressocyparis x leylandii or grisellinia. 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 order to screen the development and assimilate it into the surrounding rural landscape, in the interest of visual amenity.

12. 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 have regard to the draft Construction Environmental Management Plan submitted with the planning application and standard best practice methods during construction. It shall provide details of intended construction practice for the development including the following:
 - (a) location of the site and materials compound including areas for the storage of construction refuse;
 - (b) details for on-site parking of cars for site workers during construction;
 - (c) details of hours of working and appropriate mitigation measures for noise, dust and vibration;
 - (d) containment of all construction-related fuel and oil within specially constructed bunds;

- (e) off-site disposal of construction/demolition waste and measures for the management of excavated soil and the control of water pollution;
- (f) means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface waters, and
- (g) a suitably qualified and experienced person shall be responsible for the implementation of the Construction Environmental Management Plan including environmental protection measures and for the supervision of the works.

A copy of the Construction Environmental Management Plan shall be kept on site and a record of daily checks that the works re being undertaken in accordance with the Construction Environmental Management Plan shall be available for inspection during the construction phase.

Reason: In the interests of amenities, public health and safety and to prevent water pollution.

13. 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 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 within three months of the date of this order 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.