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**Planning and Development Acts 2000 to 2019**

**Planning Authority: Cork County Council**

**Planning Register Reference Number: 18/07177**

**Appeal** by Bertie O'Brien and Kathy Soo-O'Brien of Ballinluska, Myrtleville, County Cork against the decision made on the 10<sup>th</sup> day of April, 2019 by Cork County Council to grant subject to conditions a permission to Jovita Dennehy care of Denis O'Sullivan and Associates of Joyce House, Barrack Square, Ballincollig, County Cork in accordance with plans and particulars lodged with the said Council:

**Proposed Development:** Construction of a two-storey split level dwelling with domestic wastewater treatment system and soil polishing filter and for the decommissioning of a septic tank serving a current dwelling and its replacement with a new wastewater treatment system and soil polishing filter. Permission is also sought to close existing site entrance and form a new entrance onto private road with walls and piers and all associated site works at Seaview, O'Regan's Field, Myrtleville, Ballinluska, 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 location of the site within the settlement boundary for Crosshaven and the Bays, the provisions of the Cork County Development Plan 2014 and the Bandon Kinsale Municipal District Local Area Plan 2017, the existing pattern of development in the area and the nature 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 amenities of the area or of property in the vicinity, would be acceptable in terms of pedestrian and traffic safety 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 carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and details submitted on the 20<sup>th</sup> day of March, 2019, 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. Details of the materials, colours and textures of all the external finishes to the proposed dwelling shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interest of visual amenity.

3. The first floor window in the east elevation of the proposed dwelling shall be replaced by a high level window ope or shall be permanently fitted with obscured glazing. Revised plans drawings showing compliance with this requirement shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interest of amenities of adjoining property.

4. (a) The treatment plants and polishing filters shall be located, constructed and maintained in accordance with the details submitted to the planning authority on the 4th day of December, 2018, 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 systems have been properly installed shall be submitted to the planning authority within four weeks of the installation of the system.
- (c) A maintenance contract for the treatment systems shall be entered into and paid in advance for a minimum period of five years from the first occupancy of the proposed dwellinghouse and five years from the connection to the existing dwellinghouse, and thereafter shall be kept in place at all times. Signed and dated copies of the contracts shall be submitted to, and agreed in writing with, the planning authority within four weeks of the installation.
- (d) Surface water soakaways shall be located such that the drainage from the dwellings and paved areas of the site shall be diverted away from the location of the polishing filters.
- (e) Within three months of the first occupation of the proposed dwellinghouse and within three months of the connection to the existing dwellinghouse, the developer shall submit reports from a suitably qualified person with professional indemnity insurance certifying that the proprietary effluent treatment systems have

been installed and commissioned in accordance with the approved details and are working in a satisfactory manner and that the polishing filters are constructed in accordance with the standards set out in the Environmental Protection Agency document.

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

5. The septic tank serving the existing dwelling shall be decommissioned and removed from the site prior to the first occupation of the proposed dwelling.

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

6. 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. All surface water from the site shall not be permitted to drain onto the adjoining lane or adjoining property.

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

7. The developer shall enter into a water agreement with Irish Water prior to commencement of this development.

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

8. The site shall be landscaped in accordance with a scheme of landscaping, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The scheme shall include a timescale for its implementation.

**Reason:** In the interest of visual amenity.

9. Site development and building works shall be carried out only between the hours of 0700 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.

10. 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 interests of public safety and residential amenity.

11. 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 the 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.

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

**Dated this            day of            2019.**