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**Planning and Development Acts 2000 to 2019**

**Planning Authority: Cork County Council**

**Planning Register Reference Number: 18/06561**

**Appeal** by Tim Donovan and Sinead Murphy Donovan of Knocknaboola, Rathcormac, County Cork and by others against the decision made on the 2<sup>nd</sup> day of July, 2019 by Cork County Council to grant subject to conditions a permission to Dan O'Brien and John Collins care of McCutcheon Halley of 6 Joyce House, Barrack Square, Ballincollig, County Cork in accordance with plans and particulars lodged with the said Council.

**Proposed Development:** The construction of 23 number dwelling houses and all associated ancillary site development works to include the provision of a pedestrian footpath along the L1520 public road and through lands to the north west at Beechpark, Rathcormack (townland), Rathcormac, County Cork. The proposed development lies within the curtilage of Beech Park (The Old Rectory), Protected Structure RPS reference number 00331. (As amended by the further public notice received by the planning authority on the 21st day of February, 2019.

## **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 a residential area within the settlement boundary of Rathcormac, to the planning history of the site and to the relevant provisions of the Cork County Development Plan 2014 and the Fermoy Municipal District Local Area Plan 2017, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities of property in the vicinity, would be acceptable in terms of pedestrian and traffic safety and would constitute an appropriate form of residential development at this location. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

In deciding not to accept the Inspector's recommendation to refuse permission, the Board determined that the proposed development would be in accordance with the proper planning and sustainable development of the area having regard to, the planning history of the site and the works carried out thereunder, to the site topography and shape, to its location at the edge of the village, to the relevant provisions of the Cork County Development Plan 2014 which confirms Rathcormac as a key village, (such villages are intended to serve as a primary focus for development in rural areas), and to the objective within the Fermoy Municipal District Local Area Plan 2017 to encourage the development of up to 120 houses in Rathcormac during the plan period.

## **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 21<sup>st</sup> day of February, 2019 and the 6<sup>th</sup> day of June 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. Roof covering shall be slate or flat tile coloured dark grey or blue black, to the written satisfaction of the planning authority.

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

3. Any stone finish on a dwelling shall be of natural stone. Details of the type of stone to be used 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. Full details of public lighting shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development.

**Reason:** In the interest of orderly development.

5. The dwellings hereby permitted shall not be made available by the developer for occupation until the proposed road and footpath works to the adjoining public road network, as set out in the application documentation, have been completed to the written satisfaction of the planning authority.

**Reason:** In the interest of orderly development.

6. Prior to commencement of development, the developer shall enter into water and wastewater connection agreements with Irish Water.

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

7. Water supply and drainage arrangements, including the 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.

8. Within the first planting season on completion of the proposed dwellings, the site shall be landscaped as per the landscaping details submitted to the planning authority on the 21<sup>st</sup> day of February, 2019.

**Reason:** In the interests of visual and landscape amenity.

9. All trees and hedgerows within and on the boundaries of the site shall be retained and maintained, with the exception of the following:
  - (a) Specific trees, the removal of which is authorised in writing by the planning authority to facilitate the development.
  - (b) Trees which are agreed in writing by the planning authority to be dead, dying or dangerous through disease or storm damage, following submission of a qualified tree surgeon's report, and which shall be replaced with agreed specimens.
  - (c) Retained trees shall be protected from damage during construction works. Within a period of six months following the substantial completion of the proposed development, any planting which is damaged or dies shall be replaced with others of similar size and species, together with replacement planting required under paragraph (b) of this condition.

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

10. Rear garden boundaries shall be 1.8 metre high and shall consist of screen walls, rendered and capped or concrete post and concrete panel fences.

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

11. All of the in-curtilage car parking spaces serving the residential units shall be provided with electric connections to the exterior of the houses to allow for the provision of future electric vehicle charging points.

**Reason:** In the interest of sustainable transportation.

12. All development works shall be carried out in accordance with the planning authority's taking in charge standards and shall be maintained by the developer until taken in charge by the planning authority. The open space areas shall be maintained as public open space by the applicant and at the time of taking in charge, shall be vested in the local authority at no cost to the authority, as public open space.

**Reason:** In the interest of orderly development.

13. 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.

14. Site development and building works shall be carried out only between the hours of 0800 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.

15. 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.

**Reason:** In the interest of sustainable waste management.

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 of roads, footpaths, watermains, drains, 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 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 of the development.

17. 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 development plan of the area.



18. 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 suitably-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.

19. 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.

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

**Dated this            day of            2019.**