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**Planning and Development Acts 2000 to 2019**

**Planning Authority: Cork County Council**

**Planning Register Reference Number: 19/04350**

**Appeal** by Cortica Property Limited care of McCutcheon Halley of 6 Joyce House, Barrack Square, Ballincollig, County Cork against the decision made on the 4<sup>th</sup> day of November, 2019 by Cork County Council to grant subject to conditions a permission to Hilda O'Shea 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:** Construction of 27 number dwellinghouses and all ancillary site development works. The proposed development consists of the construction of seven number four bedroom detached dwellinghouses, six number four bedroom semi-detached dwellinghouses and 14 number three bedroom semi-detached dwellinghouses. Ancillary site works include landscaping and servicing proposals and the provision of a public footpath along the site's roadside boundary. Pedestrian and vehicular access to the proposed development will be provided via three number new entrances from the L-2216 road. All on lands adjacent to The Rectory, Ministers Cross, Carrigrohane, 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 nature and scale of the proposed development, to the location of the site within a designated settlement boundary and the zoning of the site in the Ballincollig Carrigaline Municipal District Local Area Plan, 2017, to the planning history and pattern of permitted development in the vicinity of the site, and having regard to the provisions of the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas issued by the Department of the Environment, Heritage and Local Government in May, 2009, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential or visual amenities of the area 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.

## 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 28<sup>th</sup> day of June, 2019 and by the clarification of these further plans and particulars submitted on the 8<sup>th</sup> day of October, 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. The proposed development shall be amended as follows:
  - (a) The dwellinghouses proposed for plots numbered 14 – 17 shall be omitted along with their access arrangements from the L-2216.
  - (b) The Tree Impact Inventory submitted to the planning authority on the 28<sup>th</sup> day of June, 2019 shall be amended to show the retention in full of the hedgerows identified as 7535-36 and 7538-39.

Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In order to ensure that the character and setting of The Rectory, a historic dwellinghouse identified in the National Inventory of Architectural Heritage, is respected in the interests of conservation and amenity.

3. Trees identified for retention in the Tree Impact Inventory, as amended by condition number 2(b) above, shall be retained for the duration of the development. If, in the future, any such trees are found to be dead, dying or dangerous through disease or storm damage, then their removal shall only proceed on the basis of a qualified tree surgeon's report, which shall be agreed in writing with the planning authority and they shall, likewise, be replaced with agreed species.

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

4. (a) Prior to commencement of development, all trees, groups of trees, hedging and shrubs which are to be retained shall be enclosed within stout fences not less than 1.5 metres in height. This protective fencing shall enclose an area covered by the crown spread of the branches, or at minimum a radius of two metres from the trunk of the tree or the centre of the shrub, and to a distance of two metres on each side of the hedge for its full length, and shall be maintained until the development has been completed.
- (b) No construction equipment, machinery or materials shall be brought onto the site for the purpose of the development until all the trees which are to be retained have been protected by this fencing. No work shall be carried out within the area enclosed by the fencing and, in particular, there shall be no parking of vehicles, placing of site huts, storage compounds or topsoil heaps, storage of oil, chemicals or other substances, and no lighting of fires, over the root spread of any tree to be retained.

**Reason:** To protect trees and planting during the construction period in the interest of visual amenity.

5. The landscaping scheme shown on drawing number 200 revision 2, as submitted to the planning authority on the 8<sup>th</sup> day of October, 2019, shall be carried out within the first planting season following substantial completion of external construction works.

In addition to the proposals in the submitted scheme, the following shall be carried out: Replacement planting of 10 beech trees and native hedging to the eastern boundary of the front lawn to The Rectory. A temporary fence shall, likewise, be erected along this boundary, until such times as the hedging is established.

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 or until the development is taken in charge by the local authority, whichever is the sooner, 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.

6. The areas of public open space shown on the lodged plans shall be reserved for such use and shall be levelled, soiled, seeded, and landscaped in accordance with the detailed requirements of the planning authority. This work shall be completed before any of the dwellings are made available for occupation, and shall be maintained as public open space by the developer until taken in charge by the local authority. At the time of taking in charge, these areas shall be vested in the local authority as public open space, at no cost to the authority.

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

7. Prior to commencement of development, a scheme for the detailed design of the proposed children's play area shall be submitted to, and agreed in writing with, the planning authority and, thereafter, the agreed scheme shall be fully implemented prior to the making available for occupation of any of the dwellinghouses. The play area shall be maintained by the developer until taken in charge by the local authority.

**Reason:** In order to ensure that a satisfactory children's play area is available at all times for the use of future residents.

8. All boundary treatments shall be undertaken in accordance with the requirements of the planning authority.

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

9. 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.

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

10. (a) The developer shall enter into water and wastewater connection agreements with Irish Water, prior to the commencement of development.
- (b) The developer shall maintain the pumping station until such time as it is taken in charge by Irish Water.

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

11. 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.

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

12. The internal road network serving the proposed development including turning bays, junctions, footpaths and kerbs shall comply with the detailed standards of the planning authority for such road works.

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

13. 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. Such lighting shall be provided prior to the making available for occupation of any house.

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



14. 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.

15. 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. 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.

16. 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.

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:
- (a) Location of the site and materials compound(s) including area(s) identified for the storage of construction refuse.
  - (b) Location of areas for construction site offices and staff facilities.
  - (c) Details of site security fencing and hoardings.
  - (d) Details of on-site car parking facilities for site workers during the course of construction.
  - (e) Details of the timing and routing of construction traffic to and from the construction site and associated directional signage, to include proposals to facilitate the delivery of abnormal loads to the site.
  - (f) Measures to obviate queuing of construction traffic on the adjoining road network.
  - (g) Measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network.

- (h) Details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels.
- (i) Containment of all construction-related fuel and oil within specially constructed bunds to ensure that fuel spillages are fully contained. Such bunds shall be roofed to exclude rainwater.
- (j) Off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil.
- (k) Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains.

A record of daily checks that the works are being undertaken in accordance with the Construction Management Plan shall be kept for inspection by the planning authority.

**Reason:** In the interests of amenities and of public health and safety.

18. Prior to the commencement of development, a detailed scheme for the public footpath, which is to be constructed along the south-eastern/eastern boundary of the site with the L-2216, shall be submitted to, and agreed in writing with, the planning authority and, thereafter, this scheme shall be fully implemented prior to the first occupation of any of the dwellinghouses.

**Reason:** To ensure that the opportunity for local connectivity is available at all times to residents.

19. 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 96(4) and 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 97(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 for the area.

20. 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 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.

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

**Dated this            day of            2020.**