

Planning and Development Acts 2000 to 2021

Planning Authority: Cork County Council

Planning Register Reference Number: 20/06272

Appeal by Lisa O'Donoghue of Charleville Road, Newmarket, County Cork against the decision made on the 8th day of July, 2021 by Cork County Council to grant subject to conditions a permission to DSJ Construction Limited care of Gerald McCarthy Architects of 72 Main Street, Macroom, County Cork in accordance with plans and particulars lodged with the said Council:

Proposed Development: The construction of a new eight-unit housing development consisting of the following:- two number three bedroom semi-detached dwellinghouses, six number two bedroom semi-detached dwellinghouses, new vehicular entrance, storm and surface water sewers including attenuation system by way of over-sized pipework, foul water sewer, public lighting, boundary walls, footpaths, open spaces together with all other ancillary site works (permission was previously granted on this site under planning register reference number 08/5737, extension of duration granted under planning register reference number 13/5153 and retention permission granted under planning register reference number 19/6835), all at Scarteen Street, Newmarket T.D and Scarteen Lower, Newmarket, County Cork as

amended by the revised public notice received by the planning authority on the 15th day of March, 2021.

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 relevant provisions of the current Cork County Development Plan and the Kanturk Mallow Municipal District Local Area Plan 2017, to the established pattern of development in the area and to the nature, scale and extent 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 residential amenities of the area, would be acceptable in terms of pedestrian and traffic safety and would constitute an appropriate form of development at this urban location. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

Appropriate Assessment: Stage 1

The Board completed an Appropriate Assessment Screening exercise in relation to the potential effects of the proposed development on designated European Sites, taking into account the nature, scale and location of the proposed development, the Appropriate Assessment Screening Report submitted to the planning authority, and the Inspector's report and submissions on file. The Board agreed with and adopted the screening assessment carried out and conclusions reached 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 associated documentation submitted to the planning authority, the mitigation measures contained therein, the submissions and observations on file, and the Inspector's assessment. The Board completed an appropriate assessment of the implications of the proposed development for 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 to the planning authority on the 15th day of March, 2021, the 18th day of March, 2021 and the 10th day of June, 2021, 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. Prior to commencement of development, details of the materials, colours and textures of all the external finishes to the proposed development shall be submitted to, and agreed in writing with, the planning authority.

Reason: In the interest of orderly development and in the interest of visual amenity.

3. The development shall be amended as follows:
- (a) a timber fence shall be provided along the eastern boundary to the west of the existing treeline and a robust hedgerow shall be planted on the development side of the fence,
 - (b) screen walls shall be provided along the northern boundary, the southern boundary and the western boundary north of the access lane, respectively, which shall be two metres in height above ground level and shall be constructed of concrete block which shall be suitably capped and rendered,
 - (c) all rear gardens shall be bounded by block walls, 1.8 metres in height, capped and rendered on both sides, and
 - (d) all bathroom/ensuite windows shall be fitted and permanently maintained in obscure glass. The use of film is not permitted.

Reason: In the interest of residential and visual amenity.

4. The footpath along the access road shall incorporate a surface which is to be designed to provide for tree root protection along its path, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: To ensure the protection of the hedgerows and treelines bounding the accessway.

5. All works shall be implemented in accordance with the mitigation measures specified in section 4.5 of the Natura impact statement (NIS) received by the planning authority on the 15th day of March, 2021 and as updated by any relevant conditions set out in this Order.

Reason: In the interest of the protection of the environment.

6. The internal road network serving the proposed development, including turning bays, junctions, parking areas, footpaths and kerbs, shall comply with all relevant provisions of DMURS.

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

7. All of the communal parking areas serving the residential units shall be provided with functional electric vehicle charging points. Details of how it is proposed to comply with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development.

Reason: In the interest of sustainable transportation.

8. The excavation of the proposed development shall be supervised by a suitably qualified invasive species consultant to ensure that no evidence of Japanese Knotweed is present on the site. Prior to the completion of the excavation, a full report shall be submitted to, and agreed in writing with, the planning authority.

Reason: In the interests of orderly development and the control of invasive species.

9. The site shall be landscaped in accordance with a comprehensive scheme of landscaping, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This scheme shall include the following:

- (a) A plan to scale of not less than 1:500 showing:
 - (i) the species, variety, number, size and locations of all proposed trees and shrubs which shall comprise predominantly native species such as mountain ash, birch, willow, sycamore, pine, oak, hawthorn, holly, hazel, beech or alder, details of screen planting which shall not include cupressocyparis x leylandii,
 - (ii) details of hard landscaping works specifying surfacing materials, furniture and finished levels, and
 - (iii) details of boundary treatment;
- (b) a timescale for implementation.

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 5 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 interest of residential and visual amenity.

10. The areas of public open space shown on the lodged plans shall be reserved for such use. These areas shall be soiled, seeded, and landscaped in accordance with the landscaping scheme submitted to the planning authority on the 15th day of March 2021. 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.

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

11. (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 2 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 works 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.

12. Water supply and drainage arrangements, including the 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 and to ensure a proper standard of development.

13. The developer shall enter into water and/or wastewater connection agreement(s) with Irish Water, prior to commencement of development.

Reason: In the interest of public health.

14. The management and maintenance of the proposed development following completion shall be the responsibility of a legally constituted management company until and unless the development is taken in charge. A management scheme providing adequate measures for the future maintenance of public open spaces, roads and communal areas shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: To provide for the satisfactory future maintenance of this development in the interest of residential amenity.

15. Proposals for an estate/street name, housing 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 and to ensure the use of locally appropriate place names for new residential areas.

16. 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 the residential and the visual amenities of the area.

17. 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 the commencement of development.

Reason: In the interest of amenity and public safety.

18. A plan containing details for the management of waste (and, in particular, recyclable materials) within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the waste shall be managed in accordance with the agreed plan.

Reason: To provide for the appropriate management of waste and, in particular recyclable materials, in the interest of protecting the environment.

19. 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 "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.

20. 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. The plan shall provide details of intended construction practice for the development, including hours of working, noise management measures and off-site disposal of construction and demolition waste.

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

21. Prior to the commencement of any dwellinghouse in the development as permitted, the applicant or any person with an interest in the land shall enter into an agreement with the planning authority (such agreement must specify the number and location of each house), pursuant to Section 47 of the Planning and Development Act 2000, as amended, that restricts all houses and duplex units permitted to first occupation by individual purchasers i.e., those not being a corporate entity, and/or by those eligible for the occupation of social and/or affordable housing, including cost rental housing.

Reason: To restrict new housing development to use by persons of a particular class or description in order to ensure an adequate choice and supply of housing, including affordable housing, in the common good.

22. 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 current Development Plan for the area.

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23. 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.

24. 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.

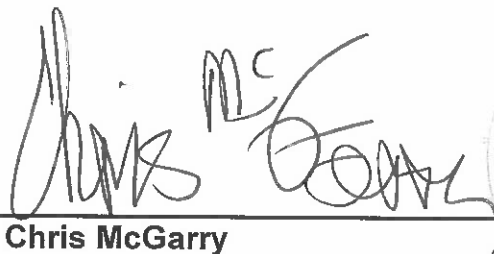
Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in



accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

25. The developer shall pay a sum to the planning authority as a special contribution under section 48(2)(c) of the Planning and development Act 2000, as amended, in respect of the extension and widening of the public footpath to serve the development. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate. The application of indexation required by this condition shall be agreed between the planning authority and the developer or, in default of such agreement, the matter may be referred to the Board to determine.

Reason: It is considered reasonable that the developer should contribute towards the specific exceptional costs which are incurred by the planning authority which are not covered in the Development Contribution Scheme and which will be benefit the proposed development.



Chris McGarry

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



Dated this 27th day of April 2022.