

An  
Bord  
Pleanála

Board Order  
ABP-311107-21

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**Planning and Development Acts 2000 to 2021**

**Planning Authority: Kerry County Council**

**Planning Register Reference Number: 20/1198 (An Daingean Castleisland)**

**Appeal** by Niamh Hanifin of Cahereens West, Killarney Road, Castleisland, County Kerry against the decision made on the 26<sup>th</sup> day of July, 2021 by Kerry County Council to grant subject to conditions a permission to LSG Property Developments Limited 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:** (a) Demolition of an existing disused single storey funeral home, (b) construction of residential development of 72 number dwelling units consisting of six number one bed apartments, 15 number two bed mid-terraced dwellings, 44 number three bed semi-detached/terraced dwellings and seven number three bed end of terrace dwellings, (c) associated secure bicycle parking and bin storage, (d) vehicular access to the proposed development will be via the existing access from the Killarney Road which it is proposed to retain, and (e) the development will also include a pedestrian walk along the bank of the River Maine and all associated site works including 139 number car parking spaces, foul and storm drainage with

on-site attenuation, public lighting, landscaping and amenity areas at Cahereen West, Killarney Road, Castleisland, County Kerry. The proposed development was revised by further public notices received by the planning authority on the 29<sup>th</sup> day of June, 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 location of the site within the development boundary for Castleisland and to the specific objective as set out in the Killarney Municipal District Local Area Plan 2019 to encourage the development of up to 91 number dwelling units to support the sustainable development and growth of the town to meet its population target and to make effective use of infill, brownfield and backland sites on zoned lands that are contiguous with the town centre, it is considered that, subject to compliance with the conditions set out below, the proposed development would facilitate the achievement of these objectives, would not seriously injure the visual or residential amenities of the area, would not adversely impact on the established character 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 to the planning authority on the 9th 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. The developer shall comply with the following requirements: -
- (a) Prior to commencement of development, the developer shall consult with Inland Fisheries Ireland regarding the construction methodology to be employed adjacent to the River Maine.
  - (b) The construction works close to the River Maine shall be carried out in accordance with the Construction Environmental Management Plan to be agreed in accordance with the provisions of condition number 17 hereunder and the "Planning for Watercourses in the Urban Environment" guidelines published by Inland Fisheries Ireland.
  - (c) The mitigation measures to control Japanese Knotweed on the site shall be implemented in full in accordance with the Management Plan for Japanese Knotweed submitted to the planning authority on the 9<sup>th</sup> day of June 2021.

**Reason:** In the interest of biodiversity and pollution prevention.

3. Prior to commencement of development, a buffer zone of 20 metres shall be established from archaeological monument Ke040-025 (Ringfort) by a suitably qualified archaeologist. Details of the delineation, layout, fencing and signage of the buffer zone shall be submitted to, and agreed in writing with, the planning authority prior to the establishment of the buffer zone. No construction works, stockpiling of materials or topsoil, or any development or landscaping, shall take place within the buffer zone. No trees or plants shall be removed from the buffer zone. The buffer zone shall remain in place until the completion of the development on the site.

**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.

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

**Reason:** To ensure that satisfactory water and wastewater arrangements are in place to serve the development.

5. 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.

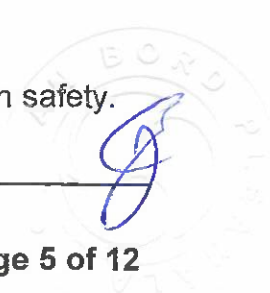
**Reason:** In the interest of public health.

6. 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 prior to commencement of development.

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

7. The internal road network serving the proposed development, including turning bays, junctions, parking areas, footpaths and kerbs shall comply with the Design Manual for Urban Roads and Streets.

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

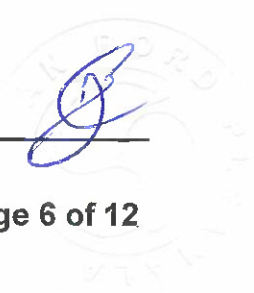


8. (a) The Recommendations of the Stage 1 and 2 Road Safety Audit received by the planning authority on the 9<sup>th</sup> day of June, 2021 shall be implemented in full.
- (b) A Stage 3 Road Safety Audit shall be carried out at the completion of the proposed development and the recommendations therein shall be acted upon.
- (c) A detailed design and layout for the proposed entrance to the site from the public roadway shall be submitted to and agreed in writing with the planning authority prior to commencement of development. Sightlines and road markings shall be carried out in accordance with the detailed standards of the planning authority for such works prior to the occupation of any dwelling. No vegetation or structure shall exceed one metre in height within the sight distance triangle.

**Reason:** In the interest of road safety.

9. All of the communal parking areas serving the residential units shall be provided with functional electric vehicle charging points, and all of the in-curtilage car parking spaces serving 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. 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 commencement of development.

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



10. 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 housing unit.

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

11. 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 interest of visual and residential amenity.

12. (a) All screen walls and boundary walls within the proposed development shall be constructed and finished in accordance with the details submitted to the planning authority on the 9<sup>th</sup> of June 2021.
- (b) Details of the location, design and construction method of any retaining walls, including those between plots, shall be submitted to and agreed in writing with the planning authority prior to commencement of development.

**Reason:** In the interest of visual amenity and public safety.

13. Proposals for an estate/street name, housing/apartment 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/apartment 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.

14. 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 9th day of December 2020, as amended by the layout plan submitted on 9th day of June 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.



15. 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 social and affordable housing in accordance with the requirements of section 96 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 the Board 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.

16. 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.

17. The construction of the development shall be managed in accordance with a site-specific detailed Construction Environmental 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 interest of nature conservation, public safety and residential amenity.

18. Prior to the commencement of any house 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 or duplex unit), pursuant to Section 47 of the Planning and Development Act 2000, that restricts all houses 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.

19. 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.

20. 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.

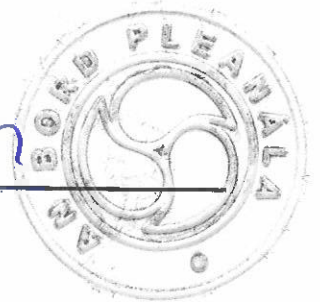


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**John Connolly**

**Member of An Bord Pleanála**

**duly authorised to authenticate  
the seal of the Board.**



Dated this 8<sup>th</sup> day of APRIL 2022.