

Planning and Development Acts 2000 to 2021

Planning Authority: Cork County Council

Planning Register Reference Number: 20/04753

Appeal by David Walsh of Mountain View, Knockacur, Doneraile, County Cork against the decision made on the 27th day of August, 2021 by Cork County Council to grant subject to conditions a permission to John Curran and Sons Construction Limited care of O'Keeffe O'Connell Architects Limited of Annabella, Mallow, County Cork in accordance with plans and particulars lodged with the said Council.

Proposed Development: (1) Demolition of three number existing agricultural buildings; (2) the construction of 22 number semi-detached dwelling units; (3) four number residential serviced sites; (4) construction of new site entrance in existing stone wall boundary and realignment of a section of the existing boundary stone wall to facilitate sightlines; (5) changing existing vehicular access to pedestrian/cyclist access and (6) all associated ancillary development and site works including wastewater pumping station, connection to existing public water main, connection to public wastewater sewer, parking, landscaping and amenity areas at Lisnagrough, Doneraile, County Cork. A further public notice was received by the planning authority on the 5th day of July, 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.

Reasons and Considerations

Having regard to:

- (a) the policy objectives of the National Planning Framework,
- (b) the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (Cities, Towns and Villages) and the accompanying Urban Design Manual issued by the Department of the Environment, Heritage and Local Government in May, 2009,
- (c) Objectives HOU 3-1, HOU 3-2 and HOU 3-3 of the Cork County Development Plan 2014-2022,
- (d) the provisions of the Fermoy Municipal District Local Area Plan 2017 as it relates to Doneraile,
- (e) the location of the site within the development boundaries of the Key Village of Doneraile, within walking distance of the village centre and linked to the centre by an existing footpath,
- (f) the availability of water and wastewater, and
- (g) the layout and design 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 or visual amenities of adjoining properties, would not seriously injure the residential amenities of future occupants and would be acceptable in terms of pedestrian and traffic safety and would constitute an acceptable form of development at this serviced 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 considered the totality of the documentation on file, including the assessment of the planning authority and the appeal submission and concluded that the subject site is within walking distance of the village centre and linked by existing footpath, is serviced and capable of development and is within the development envelope of the village as set out in the statutory plan. Furthermore, the Board determined that the housing mix was appropriate and the design and layout of the proposed development, including the form and disposition of the open space was an acceptable form of development in the context of the relevant provisions and policies of the statutory plan. In addition, the Board determined that the site's location within the development envelope of the village warranted its consideration for residential use, notwithstanding the potential availability of other lands also for residential use, having regard to the overall level of housing growth anticipated for the village as set out in the statutory plan. Finally, the Board considered that the intervention on the existing boundary wall at the site was warranted, given the requirement for access/egress to development at this location and having regard to the relatively limited extent of the intervention.

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 26th day of April 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 proposed development shall be amended as follows:
 - (a) The eastern boundary concrete block wall shall be clad in stone on its eastern elevation.

Revised drawings showing compliance with this condition 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. External finishes including all materials, colours and textures shall be in accordance with the details submitted to the planning authority, unless otherwise agreed prior to commencement of development.

Reason: In the interest of visual amenity.

4. 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.

5. Prior to commencement of development, the developer shall enter into water and/or wastewater connection agreement(s) with Irish Water.

Reason: In the interest of public health.

6. 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.

7. 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.

8. Site development and building works shall be carried out only between the hours of 0700 and 1900 from Mondays to Fridays inclusive, between the hours of 0800 and 1400 on Saturdays, and not at all on Sundays or 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 the interest of protecting the residential amenities.

9. The development hereby permitted, including all roads, footpaths, and public lighting, shall be carried out in accordance with the standards and requirements of the planning authority for taking in charge. The development shall be maintained by the developer until taken in charge by the authority and shall not be operated or maintained by a private management company.

Reason: In order to comply with national policy in relation to the maintenance and management of residential estates, and to ensure that the development, when completed, can be taken in charge by the planning authority.

10. 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.

11. 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. The proposed name(s) shall be based on local historical or topographical features, or other alternatives acceptable to the planning authority. 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 placenames for new residential areas.

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12. 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. 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.

13. 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 Landscape Plan drawing number 0719-P-150 submitted to the planning authority on the 26th day of April, 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. At the time of taking in charge, these open spaces 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.

14. 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.



Retained trees and hedgerows 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.

15. 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 clarity, orderly development and amenity.

16. All works shall be implemented in accordance with the mitigation measures set out in the Ecological Impact Assessment report received by the planning authority on the 26th day of April 2021, except as may be amended by the conditions herein.

Reason: In the interest of environmental protection.

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. 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.

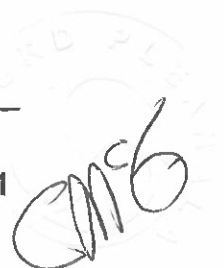
Reason: To restrict new housing development to use by persons of a particular class or description in order to ensure an adequate choice and supply of housing, including affordable housing, in the common good.

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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 until taken in charge, of the development.

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.

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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.

21. The developer shall pay to the planning authority a financial contribution as a special contribution under section 48(2) (c) of the Planning and Development Act 2000, as amended, in respect of the provision of upgrading of public lighting on the adjoining public road. The amount of the contribution 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 for determination. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be updated at the time of payment in accordance with changes in the Wholesale Price Index – Building and Construction (Capital Goods), published by the Central Statistics Office.

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 benefit the proposed development.


Chris McGarry

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

Dated this 29th day of April 2022.

