

An
Bord
Pleanála

Board Order
ABP-312412-22

Planning and Development Acts 2000 to 2021

Planning Authority: Cork City Council

Planning Register Reference Number: 21/40135

Appeal by Sylvester Cotter care of John McCormick of 25 Slieve Mish Park, Kinsale Road, Cork and by Eric and Ann Waterman care of TPlan Planning Consultants of 20 Westbury Heights, Annabella, Mallow, County Cork and by others against the decision made on the 7th day of December, 2021 by Cork City Council to grant subject to conditions a permission to Aperee Living Rochestown Limited care of McCutcheon Halley Planning Consultants of 6 Joyce House, Barrack Square, Ballincollig, County Cork in accordance with plans and particulars lodged with the said Council.

Proposed Development: Construction of a 100 number bed space nursing home and 47 number independent living units and all associated site development works. The proposed development comprises of demolition of an existing dwelling and all associated structures, construction of a two-storey over basement nursing home building, 20 number townhouse units, and 27 apartments in two number three-storey over basement blocks. Photovoltaic panels are proposed at roof level. A new vehicle access onto Clarke's Hill, and all associated landscaping, car parking, bicycle storage and signage. The proposed site development works include: the construction of an ESB substation, two number external bin stores and the installation of an underground water storage tank and external plant enclosure, all at

Clarke's Hill, Rochestown, Cork, as amended by the revised public notices received by the planning authority on the 10th day of September, 2021.

Decision

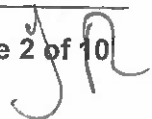
GRANT permission for the above proposed development in accordance with the said plans and particulars based on the reasons and considerations under and subject to the conditions set out below.

Reasons and Considerations

Having regard to the provisions of the Cork City Development Plan 2022-2028 and the residential zoning of the site, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the visual and residential amenities of the area, would not be prejudicial to public health 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 proposed 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 received by the planning authority on the 25th day of August, 2021 and the 10th day of November, 2021, and by the further plans and particulars received by An Bord Pleanála on the 14th day of February, 2022, 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 proposed development shall be carried out and completed in accordance with the agreed particulars.



Reason: In the interest of clarity.

2. The occupation of the independent townhouse and apartment living units within the proposed development shall be restricted to the age cohort of 55 years and over (as indicated in the Planning Report received by the planning authority on the 27th day of April, 2021) and these living units shall not be sold, let or otherwise transferred or conveyed separate from the nursing home on the site without a prior grant of planning permission.

Reason: In the interest of clarity.

3. 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.

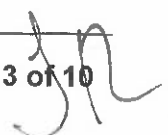
Reason: To ensure adequate servicing of the development, and to prevent pollution.

4. Prior to commencement of development. the developer shall enter into water and wastewater connection agreements with Uisce Éireann (formerly Irish Water).

Reason: In the interest of public health.

5. 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.



6. Prior to commencement of development, the developer shall submit to, and agree in writing with, the planning authority details of a public lighting plan for the proposed development. This plan shall detail the proposed external lighting and include measures to shield lights and direct them away from trees and hedgerows that serve as ecological corridors for bat feeding. Such lighting shall be provided prior to the making available for occupation of the nursing home or any dwelling unit.

Reason: In the interest of amenity, public safety and protecting bat habitats in the area.

7. Detailed measures in relation to the protection of bats shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. These measures shall be implemented as part of the proposed development.

Reason: In the interest of wildlife protection.

8. 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.

9. (a) 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 [and for the ongoing operation of these facilities] for each apartment unit 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.

- (b) This plan shall provide for screened communal bin stores, the locations and designs of which shall be included in the details to be submitted.

Reason: In the interest of residential amenity, and to ensure the provision of adequate refuse storage.

10. A minimum of 10% of all the communal parking spaces serving the proposed development shall be provided with functional electric vehicle charging stations/points and ducting shall be provided for all remaining car parking spaces facilitating the installation of electric vehicle charging stations/points at a later date. 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: To provide for and/or future-proof the proposed development such as would facilitate the use of electric vehicles.

11. The access arrangements, including vehicular and pedestrian site entrances, road markings and signage at the Clarke's Hill Road entrance, and the internal road network serving the proposed development, including turning bays, junctions, parking areas, footpaths and kerbs, shall comply with the detailed standards of the planning authority for such road works and shall be agreed in writing with the planning authority prior to commencement of development.

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

12. (a) The developer shall fully implement all recommendations contained in the Tree Survey Report and Tree Work Method Statement received by the planning authority on the 10th day of November, 2021. Unless otherwise agreed in writing, in advance by the planning authority, the trees to be retained and removed shall be in accordance with the Landscape Information drawings received by the planning authority on the 10th day of November, 2021.
- (b) No construction equipment, machinery or materials shall be brought onto the site for the purpose of the proposed development until all the trees which are to be retained have been protected by 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: In the interest of biodiversity and the protection of trees.

13. Prior to commencement of development, the developer shall engage the services of a qualified Arborist as an arboricultural consultant for the entire period of construction activity. A Practical Completion Certificate shall be signed off by the Arborist when all construction works are completed to the satisfaction of the planning authority, and in accordance with the permitted proposals.

Reason: In the interest of the proper planning and sustainable development of the area.

14. The construction of the proposed 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 proposed development, including noise management measures and off-site disposal of construction/demolition waste.

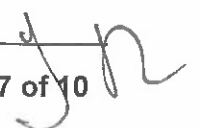
Reason: In the interest of public safety and residential amenity.

15. A construction traffic management plan shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The plan shall include details of arrangements for routes for construction traffic, parking during the construction phase, the location of the compound for storage of plant and machinery and the location for storage of deliveries to the site.

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

16. Prior to commencement of development, the developer shall prepare a Resource Waste Management Plan (RWMP) as set out in the EPA's Best Practice Guidelines for the Preparation of Resource and Waste Management Plans for Construction and Demolition Projects (2021), including demonstration of proposals to adhere to best practice and protocols. The RWMP shall include specific proposals as to how the RWMP will be measured and monitored for effectiveness; these details shall be placed on file and retained as part of the public record. The RWMP shall be submitted to the planning authority for written agreement prior to commencement of development. All records (including for waste and all resources) pursuant to the agreed RWMP shall be made available for inspection at the site office at all times.

Reason: In the interest of sustainable waste management.



17. Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Fridays, inclusive, between 0800 to 1600 hours on Saturdays and not at all on Sundays or public holidays. Deviation from these times shall only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: In order to safeguard the amenities of property in the vicinity.

18. 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.

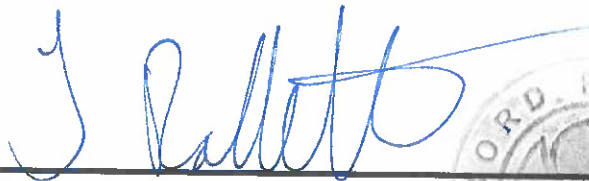

Reason: To comply with the requirements of Part V of the Planning and Development Act 2000, as amended, and of the housing strategy in the development plan of the area.

19. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company or such other security as may be accepted in writing by the planning authority, to secure the protection of the trees/hedgerows on or immediately adjoining the site and to make good any damage caused during the construction period, coupled with an agreement empowering the planning authority to apply such security, or part thereof, to the satisfactory protection of any tree or trees/hedgerows on the site or immediately adjoining the site, or the replacement of any such trees/hedgerows which die, are removed or become seriously damaged or diseased within a period of three years from the substantial completion of the development with others of similar size and species. 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 secure the protection of the trees/hedgerows on the site.

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.

Tom Rabbette

Member of An Bord Pleanála

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

Dated this 6th day of June 2023.