

Planning and Development Acts 2000 to 2022

Planning Authority: Cork County Council

Planning Register Reference Number: 21/05240

Appeal by Daniel and Ella McCarthy of Glenara, Carrignafoy Avenue, Carrignafoy, Cobh, County Cork and by Tom and Bernadette Butler of Carrignafoy Avenue, Carrignafoy, Cobh, County Cork against the decision made on the 4th day of May, 2022 by Cork County Council to grant subject to conditions a permission to Wayleaf Limited 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: The construction of a residential development of 71 number residential units, a two storey creche with ancillary bin stores and bicycle parking facilities and all associated site development works. The proposed development consists of the construction of nine number four bedroom semi-detached dwellings, one number four bedroom terraced dwelling, 23 number three bedroom semi-detached dwellings and 22 number three bedroom terraced dwellings, in addition to a three storey apartment building containing eight number three bedroom duplex units and eight number two bedroom apartments. Access to the proposed development will be provided via the extension to the existing Inis Álainn internal road network permitted by planning reference 19/4376 (amended by 20/4244). The

proposed development also provides for a separate pedestrian access from the L-7023 to the west, all at Inis Álainn, Carrignafey, Cobh, 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.

Reasons and Considerations

Having regard to: -

- (a) the location, design, scale and layout of the proposed development,
- (b) the pattern of development in the area,
- (c) the provisions of the Cork County Development Plan 2023-2028 in respect of connectivity and specially the objectives for connectivity in Cobh town (CH-GO-04 and CH-GO-05) as set out in Chapter 2 of Volume 4,
- (d) the Cork Metropolitan Area Transport Strategy and its reliance on alternatives to car usage for short trips,
- (e) the Design Manual for Urban Roads and Streets (2013) which promotes permeability and connectivity in housing layout,

it is considered that, subject to compliance with the conditions set out below, the proposed residential development providing pedestrian access along the western boundary and providing for pedestrian connectivity throughout the site and with adjoining development would be in accordance with the

development plan objectives for such connectivity and would be an integral part to achieving sustainable transport objectives such as providing for alternative modes to private car usage and viable public transport. It is, furthermore, considered that the proposed layout which incorporates a mix of house types would be in accordance with good planning practice, would be acceptable in terms of traffic safety and convenience and would not seriously injure the residential amenities of the area. The proposal would, therefore, be in accordance with the proper planning and sustainable development of the area.

Appropriate Assessment Screening

The Board noted that the proposed development is not directly connected with or necessary to the management of a European Site. In completing the screening for Appropriate Assessment, the Board accepted and adopted the screening assessment and conclusion carried out in the Inspector's report in respect of identification of the European Sites which could potentially be affected and concurred that the proposed development, individually or in combination with other plans or projects, would not be likely to have a significant effect any European site, in view of the sites' conservation objectives, and that Appropriate Assessment (and the submission of a Natura Impact Statement) is not therefore required.

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 7th day of April 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 development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2.
 - (a) Front garden boundary walls which shall replace proposed one metre high timber fencing in front gardens, shall be of block construction, rendered and suitably capped and finished in a material that matches the external finish of the dwellings.
 - (b) The 1.8 metres high boundary wall along the proposed open space along the western site boundary shall be lowered to no higher than 1.2 metres and topped with a decorative railing, (not palisade fencing).

Such details, including, height and delineation shall be submitted for the written agreement of the planning authority prior to commencement of development.

Reason: In the interests of residential and visual amenity.

3. The development shall be carried out on a phased basis, in accordance with a phasing scheme which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of any development.

Reason: To ensure the timely provision of services, for the benefit of the occupants of the proposed dwellings.

4. 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.
 - (ii) Details of roadside/street planting which shall not include prunus species.
 - (iii) Details of retaining structures and features.
 - (iv) Hard landscaping works, specifying surfacing materials, furniture and finished levels.
 - (b) Specifications for mounding, levelling, cultivation and other operations associated with plant and grass establishment.
 - (c) 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 five 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 interests of residential and visual amenity.

5. The developer shall facilitate the preservation, recording and protection of archaeological materials or features that may exist within the site. In this regard, the developer shall –
- (a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development,
 - (b) employ a suitably-qualified archaeologist who shall monitor all site investigations and other excavation works, and
 - (c) provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove.

In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.

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.

6. 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 public safety and residential amenity.

7. Prior to the commencement of development, a detailed and site-specific Construction Traffic Management Plan for the proposed development shall be submitted to, and agreed in writing with, the planning authority.

Reason: In the interests of traffic management and road safety.

8. 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.

9. 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.

10. Prior to commencement of development, the developer shall enter into water and wastewater connection agreements with Uisce Éireann.

Reason: In the interest of public health.

11. Drainage arrangements for 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.

12. (a) The site entrances, internal road network serving the proposed development, including the turning head, site access point, parking areas, footpaths and kerbs, road markings, and signage shall comply with the detailed standards of the planning authority for such road works.
- (b) The footpath layout along the site boundaries as shown on the drawings submitted to the planning authority, and the tie in with the pedestrian access shall be provided in accordance with

detailed alignments, materials and finishes to be agreed in writing with the planning authority. Any dishing of the public footpaths required to facilitate the development shall be carried out the developer's expense.

- (c) The pedestrian access in the western boundary shall remain open and unobstructed at all times. In the event of a gate, details shall be submitted for its design, and management.
- (d) The vehicular access in the western boundary shall be gated and shall only be used for essential infrastructural services for the housing development.

All such details shall be submitted to the planning authority for written agreement prior to commencement of development on site.

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

13. A minimum of 10% of all communal car parking spaces shall be provided with functioning EV charging stations/points, and ducting shall be provided for all remaining car parking spaces, including in-curtilage spaces, to facilitate the installation of EV charging points/stations at a later date. Where proposals relating to the installation of EV ducting and charging stations/points has not been submitted with the application, in accordance with the above noted requirements, such proposals shall be submitted and agreed in writing with the planning authority before making available by the developer for occupation of the residential units in the proposed development.

Reason: To provide for and/or future proof the development such as would facilitate the use of Electric Vehicles.

14. (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 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 bin stores, which shall accommodate not less than three standard-sized wheeled bins within the curtilage of each house plot.

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

15. The developer shall construct all retaining structures as per submitted drawings. The structures included in or impacting on any area to be taken in charge by the planning authority (at the Council's discretion) shall be separately identified on the drawings. Retaining structures that are classified as private boundaries by the planning authority will not be taken in charge. Prior to commencement of construction, the developer shall submit for each retaining structure a construction layout plan/drawing showing the extent of the entire structure proposed and any ancillary structure along with the cross-section detail. The site investigation details and geotechnical assumptions on which the design has been based shall also be submitted. The descriptions, lengths and retained dimensions of each structure shall also be clearly shown. Prior to commencement of construction, the developer shall submit a

certificate from a suitably qualified and indemnified structural engineer confirming to the satisfaction of the planning authority that:

- (a) the retaining structures have been designed in accordance with relevant standards and best practice,
- (b) the design surcharge and live loadings are adequate, and
- (c) the designs have been correctly transferred to contract and construction drawings construction.

Within six months of completion of construction or as otherwise agreed with the planning authority, the developer shall submit, for all retaining structures:

- (i) structural design calculation with full reference to design standards,
- (ii) as built drawings and relevant details of all retaining structures including ground conditions encountered during construction,
- (iii) certification of the design engineer confirming construction as per design and as per as built drawings. Alternatively, this certification shall be provided by a suitably qualified structural engineer to the Council's satisfaction, and
- (iv) other data that would be available for preparation of a safety file for the retaining structure in accordance with the current safety, health and welfare at work (construction) regulations.

Reason: In the interest of public safety.

16. Public lighting shall be provided in accordance with a scheme, which shall include lighting along pedestrian routes through the open spaces and along site boundary pathways, 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.

17. 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.

18. Proposals for an estate/street name, house and 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 apartment 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.

19. (a) The communal open spaces, including hard and soft landscaping, car parking areas and access ways, communal refuse/bin storage and any areas not intended to be taken in charge by the local authority, shall be maintained by a legally constituted management company.
- (b) Details of the management company contract, and drawings/particulars describing the parts of the development for which the company would have responsibility, shall be submitted to, and agreed in writing with, the planning authority before any of the residential units are made available for occupation.

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

20. 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.

21. (a) Prior to the commencement of the development as permitted, the applicant or any person with an interest in the land shall enter into an agreement with the planning authority pursuant to Section 47 of the Planning and Development Act 2000, that restricts all residential units permitted (the number and location of each housing unit being specified in such agreement), 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.
- (b) An agreement pursuant to Section 47 shall be applicable for the period of duration of the planning permission, except where after not less than two years from the date of completion of each housing unit, it is demonstrated to the satisfaction of the planning authority that it has it has not been possible to transact each of the residential units for use by individual purchasers and/or to those eligible for the occupation of social and/or affordable housing, including cost rental housing.
- (c) The determination of the planning authority as required in (b) shall be subject to receipt by the planning and housing authority of satisfactory documentary evidence from the applicant or any person with an interest in the land regarding the sales and marketing of the specified residential units, in which case the planning authority shall confirm in writing to the developer or any person with an interest in the land, that the Section 47 agreement has been terminated and that the requirement of this planning condition has been discharged in respect of each specified housing unit.



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 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 of roads, footpaths, watermains, drains, 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 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 of the development.

23. 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.

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

Dated this 24th day of January 2024.