

An
Bord
Pleanála

Board Order ABP-316840-23

Planning and Development Acts 2000 to 2022

Planning Authority: Cork County Council

Planning Register Reference Number: 22/5657

Appeal by Graham Quinn of 4 Rathbeg, Bandon Road, Kinsale, County Cork and by Concerned Residents care of Colette Relihan of 3 Rathbeg, Bandon Road, Kinsale, County Cork against the decision made on the 5th day of April, 2023 by Cork County Council to grant permission subject to conditions to Park Developments (Dublin) Limited care of McCutcheon Halley of 6 Joyce House, Barrack Square, Ballincollig, County Cork in accordance with plans and particulars lodged with the said Council.

Proposed Development: The demolition and removal of existing facilities including changing rooms, ball alley and other ancillary facilities; and the construction of 71 number dwelling houses and all associated ancillary development works including vehicular and pedestrian access, parking, footpaths, lighting, drainage, landscaping and amenity areas. The proposed development allows for the provision of a pedestrian/cycle link to connect into Abbeyfort Estate to the northeast all at Kinsale GAA Grounds, Bandon Road, Rathbeg, Abbeylands and Cappagh (Townlands), Kinsale, 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 the design, scale, density and layout of the proposed development, the provisions of the Cork County Development Plan 2022-2028, Volume 5 (West Cork), Section 1.5 which refers to Kinsale, including the site zoning objective as 'Existing Residential/Mixed Residential and Other Uses', Objectives KS-GO-07 and KS-RAP-01 which support the development of pedestrian and cyclist linkages in the town, and also having regard to the pattern of existing development in the area, it is considered that, subject to compliance with the conditions set out below, the proposed development would be in accordance with relevant provisions of the development plan, is of an appropriate density for this specific location and site context, would not seriously injure the residential or visual amenities of the area and would be acceptable in terms of pedestrian and traffic safety. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

Appropriate Assessment Screening

The Board agreed with the screening assessment and conclusion in the Inspector's report, that on the basis of the nature and scale of the proposed development on serviced lands, the nature of the receiving environment which comprises a built-up urban area, the distances to the nearest European sites and the hydrological pathway considerations, submissions on file, the information submitted as part of the applicant's Appropriate Assessment Screening report that, by itself or in combination with other development, plans and projects in the vicinity, the proposed development would not be likely to have a significant effect on the Courtmacsherry Estuary Special Area of Conservation (Site Code: 001230) or any European Site in view of

the conservation objectives of such sites, and that a Stage 2 Appropriate Assessment was 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 to the planning authority on the 6th day of March 2023, 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 the 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 development shall be amended as follows:
 - (a) The layout as shown on drawing number 21011-OMP-00-00-DR-A-1001 received by the planning authority on the 6th day of March, 2023 shall be revised to provide for the removal of unit 27 at the proposed pedestrian/cyclist link at the eastern boundary, an enlarged amenity space which shall be landscaped and a revised orientation of units 26 and 28 to provide passive surveillance of this amenity space. Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

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

3. The mitigation detailed in the Ecological Appraisal report and appended Bat Survey Report submitted to the planning authority on the 15th day of July 2022, shall be implemented as part of the development.

Reason: In the interest of wildlife protection.

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

Reason: In the interest of public health.

5. 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. The following roads, traffic and pedestrian arrangements serving the site shall be in accordance with the detailed requirements of the planning authority for such works and shall be carried out at the developer's expense.

- (a) The proposed crossing over the Bandon Road shall be suitable for both pedestrians and cyclists (toucan crossing). The location and detailed design shall be submitted to and agreed in writing with the planning authority prior to commencement of works.

- (b) Full pedestrian and cycle connectivity shall be provided between the development at the eastern boundary and adjoining Abbeyfort. The developer shall ensure that the area is fully lit up and the design of this street lighting shall be submitted to and agreed in writing with the planning authority prior to commencement of works.

Reason: In the interest of public safety and orderly development.

7. The internal road and vehicular circulation network serving the proposed development, including turning bays, junctions, parking areas, footpaths, and kerbs shall be in accordance with the detailed construction standards of the planning authority for such works and design standards outlined in the Design Manual for Urban Roads and Streets. Drawings and particulars showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

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

8. (a) The construction and operation of the proposed shared path along the front boundary of the development (Bandon Road) shall be completed prior to any works commencing on the residential dwellings, unless otherwise agreed in writing with the planning authority.
- (b) The construction and operation of the proposed pedestrian/cyclist connection on the eastern boundary shall be completed prior to the occupation of any units within the proposed scheme, unless otherwise agreed in writing with the planning authority.

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

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. The location, design and construction details of any retaining walls, including between plots, shall be submitted to and agreed in writing with the planning authority prior to the commencement of development.

Reason: In the interest of public safety.

11. Each proposed house shall be used and occupied as a single dwelling unit for residential purposes and shall not be sub-divided or used for any commercial purposes (including short-term letting) without a separate planning permission.

Reason: In the interest of clarity and to ensure the maintenance of a residential community.

12. 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 unit.

Reason: In the interests of amenity and public safety.

13. 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.

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.

14. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. All existing ground cables shall be relocated underground as part of the site development works.

Reason: In the interest of visual and residential amenity.

15. 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.

16. 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, facilitating 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 to, and agreed in writing with, the planning authority prior to the occupation of the development.

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

17. 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.

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 and for the ongoing operation of these facilities within each house plot 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. The development, including all roads, footpaths, verges, public lighting, open space, surface water drains, attenuation infrastructure and all other services, as permitted under this development, shall be carried out and completed in accordance with the "taking-in-charge" standards of the planning authority.

Reason: In the interest of proper development and in order to comply with national policy in relation to the maintenance and management of residential estates.

20. 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.

21. A comprehensive boundary treatment and landscaping scheme shall be submitted to and agreed in writing with the planning authority, prior to commencement of development. This scheme shall include the following:-

- (a) details of all proposed hard surface finishes, including samples of proposed paving slabs/materials for footpaths, kerbing and road surfaces within the development;
- (b) proposed locations of trees and other landscape planting in the development, including details of proposed species and settings;
- (c) details of proposed street furniture, including bollards, lighting fixtures and seating;
- (d) details of proposed boundary treatments at the perimeter of the site, including heights, materials and finishes, and
- (e) the boundary treatment and landscaping shall be carried out in accordance with the agreed scheme.

Reason: In the interest of visual amenity.

22. The management and maintenance of the proposed development following its completion shall be the responsibility of a legally constituted management company, or by the local authority in the event of the development being taken in charge. Detailed proposals in this regard shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: To ensure the satisfactory completion and maintenance of this development.

23. Prior to the commencement of any development, or, at the discretion of the Planning Authority, within such further period or periods of time as it may nominate in writing, the developer shall enter into a legal agreement with the Planning Authority under the provisions of section 47 of the Planning and Development Act, 2000, as amended in which an undertaking is given to:
- (a) only commence development once equivalent replacement facilities of an equivalent standard, that is, one main playing pitch, one training pitch, car park, are provided on the new permitted Kinsale GAA facility granted under planning register reference number 22/5388, unless otherwise agreed in writing with the planning authority.

Reason: In order to ensure that existing communities are not disadvantaged by the relocation of club facilities as per paragraph 14.5.6 and Plan Objectives GI 14-4 (Recreation and Amenity) and GI 14-5 (Replacement/Redevelopment) in the Cork County Development Plan 2022-2028.

24. (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 (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 relevant residential 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.
- (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 specified housing unit, it is demonstrated to the satisfaction of the planning authority that 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 housing units, in which case the planning authority shall confirm in writing to the applicant 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.

25. 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.

26. Prior to the 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 streets, footpaths, watermains, drains, open space and other services required in connection with the development, coupled with an agreement empowering the planning authority to apply such security or part therefore to the satisfactory completion of any part of the development. The form and amount of security shall be as agreed between the planning authority and the developer, or in default of an agreement shall be determined by An Bord Pleanála.

Reason: To ensure the satisfactory completion of the development.

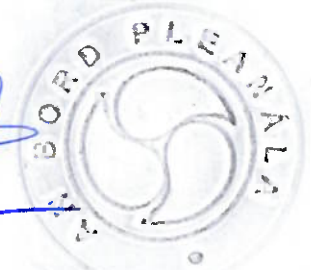
27. The developer shall pay a financial contribution to the planning authority as a special contribution under Section 48(2)(c) of the Planning and Development Act 2000, as amended, in respect of works proposed to be carried out, for the provision of Contribution towards equivalent delivery of footpath and cycle connectivity between existing Kinsale GAA and permitted Kinsale GAA, (Specify the particular works of public infrastructure and facilities to which the specific exceptional costs relate), which benefits the proposed development. 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 may be agreed prior to the commencement of the development and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the terms of payment of this financial contribution shall be agreed in writing between the planning authority and the developer.

Reason: It is considered reasonable that the developer should contribute towards the specific exceptional costs which are incurred by the planning authority in respect of public services, which are not covered in the Development Contribution Scheme or the Supplementary Development

Contribution Scheme and which will benefit the proposed development.

28. 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.



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

Dated this 12TH day of September 2024