

An  
Bord  
Pleanála

**Board Order**  
**ABP-318260-23**

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**Planning and Development Acts 2000 to 2022**

**Planning Authority: Cork County Council**

**Planning Register Reference Number: 23/00020**

**Appeal** by Regina Campbell and John Maguire of The Miles, Clonakilty, Cork against the decision made on the 26<sup>th</sup> day of September, 2023 by Cork County Council to grant subject to conditions a permission to Cloncastle Developments Limited care of Hughes Planning and Development Consultants of 85 Merrion Square, Dublin in accordance with plans and particulars lodged with the said Council:

**Proposed Development:** (i) Construction of 93 number two-storey dwellings comprising 19 number two bedroom, 67 number three bedroom and seven number four bedroom units (19 number detached, 45 number semi-detached and 29 number terrace dwellings). Each dwelling is served by a rear garden private amenity space and car parking spaces are provided either on curtilage or on street; (ii) provision of public open space (0.5132 hectares/ 5.134.2 square metres) to serve the development; (iii) single storey creche with associated outdoor play area and eight number car parking spaces and nine number bicycle parking spaces; (iv) attenuation tank and pumping station to serve surface water; (v) the development also includes two number vehicular junctions on Miles Road to serve; (a) the housing estate and the creche; and (b) car parking area for dwelling Numbers 1-6 (vi) provision of street lighting,

internal roadways, footpaths, foul and SuDS surface drainage, landscaping/boundary treatments and all ancillary infrastructural and engineering works necessary to facilitate the development at The Miles Road, Clonakilty, 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 pattern of development in the area, the site's residential zoning under the Cork County Development Plan 2022-2028, and the material received from the applicant on the 11<sup>th</sup> day of September 2024 in response to the section 131 notice issued by An Bord Pleanála on the 15<sup>th</sup> day of August 2024, it is considered that, subject to compliance with conditions below, the proposed development would accord with development plan policies and objectives for the area, would not seriously injure the character of the area or the amenities of property in the vicinity, would provide an adequate standard of residential amenity to future occupiers 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.

## **Appropriate Assessment Screening**

The Board agreed with the screening assessment and conclusion carried out in the Inspector's report that Clonakilty Bay Special Area of Conservation (Site code: 000091) and Clonakilty Special Protection Area (Site code: 004081) are the only European Sites in respect of which the proposed development has the potential to have significant effects.

## **Appropriate Assessment**

The Board considered the Natura Impact Statement and associated documentation submitted with the application for approval, the mitigation measures contained therein, the submissions and observations on file, and the Inspector's assessment.

The Board completed an appropriate assessment of the implications of the proposed development for the identified European Sites, Clonakilty Bay Special Area of Conservation (Site code: 000091) and Clonakilty Special Protection Area (Site code: 004081), in view of the sites' conservation objectives.

The Board considered that the information before it was adequate to allow the carrying out of an appropriate assessment. In completing the appropriate assessment, the Board considered, in particular, the following:

- (i) the likely direct and indirect impacts arising from the proposed development both individually or in combination with other plans or projects,
- (ii) the mitigation measures which are included as part of the current proposal, and
- (iii) the conservation objectives for the European Sites.

In completing the appropriate assessment, the Board accepted and adopted the appropriate assessment carried out in the Inspector's report in respect of the potential effects of the proposed development on the aforementioned European Sites, having regard to the sites' conservation objectives. In overall conclusion, the Board was satisfied that the proposed development, by itself or in combination with other plans or projects, would not adversely affect the integrity of the European Sites, in view of the sites' conservation objectives.

## Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by further information received by the planning authority on the 3<sup>rd</sup> day of August 2023 and unsolicited further information received by the planning authority on the 20<sup>th</sup> day of September 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 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) Units Numbers 60-68 inclusive, together with associated access cul-de-sac and other infrastructure, are only permitted once arrangements regarding the wayleave and associated wastewater services for the adjacent "CoAction CLG" site are satisfactorily resolved, with details to be agreed in writing with the planning authority prior to the commencement of development.
- (b) The construction methodology for the proposed post and concrete panel boundary fence along the western boundary, shall be agreed in writing with the planning authority, prior to the construction of works, so as to ensure no damage to any drainage infrastructure located within this area.

**Reason:** In the interest of clarity.

3. The mitigation measures contained in the submitted Natura Impact Statement (NIS), shall be implemented.

**Reason:** To protect the integrity of European Sites.

4. Prior to commencement of development, the developer shall submit to the planning authority a schedule of ecological proposals as detailed in the Ecological Impact Assessment Report, Natura Impact Statement and the Construction Environmental Management Plan submitted with the application. The schedule shall set out the timeline for implementation of each proposal and assign responsibility for implementation. All of the proposals shall be implemented in full and within the timescales stated.

In this regard:

- (a) The developer shall appoint and retain the services of a qualified ecological consultant for the duration of the development. The consultant shall ensure that the mitigation measures recommended are implemented in full.
- (b) Removal of scrub, hedgerows and trees shall only take place outside the bird breeding season (March 1<sup>st</sup> - August 31<sup>st</sup>).
- (c) All trees/hedgerow proposed for felling shall be examined for evidence of bats, prior to any works by a bat specialist. If required, a National Parks and Wildlife Service (NPWS) derogation licence shall be obtained. An operational stage tree management plan for bats shall also be submitted.
- (d) The developer shall appoint a bat ecologist to carry out a bat survey, during the appropriate period, prior to commencement of development on site and to determine if a derogation licence for bats would be required. The bat survey shall include a range of trees and buildings by several surveyors on several nights. The bat ecologist shall also review the engineer's lighting plan for the development and make such recommendations for adjustments to the plan as necessary to mitigate light spill on feeding bat habitats.

- (e) After installation of the external lighting, a report shall be submitted, prepared by the bat specialist, for the written satisfaction of the planning authority, confirming that it is operating according to specification.

**Reason:** In the interests of clarity, protection of the environment and the proper planning and sustainable development of the area.

5. The proposed creche facility shall be fully constructed and made available for use before the 75<sup>th</sup> dwelling is occupied on site.

**Reason:** In the interests of clarity and to ensure orderly development.

6. No dwelling unit shall be occupied until such time as the proposed road widening, provision of footpath and other works along the northern boundary are fully completed and available for use.

**Reason:** In the interest of residential amenity, to ensure proper phasing of development and orderly development.

7. Prior to the commencement of any works on site, the applicant shall submit the following for the written agreement of the planning authority,
- (a) an Invasive Species Management Plan detailing precise site-specific methods for the removal and/or treatment of species listed under the Third Schedule of the European Communities (Birds and Natural Habitats) Regulations 2011,
  - (b) a detailed phasing plan,
  - (c) details of proposed boundary treatments including a Construction Methodology Statement outlining how it is proposed to construct boundary treatments in the vicinity of the identified wayleave, so as to ensure no damage to third party property,
  - (d) details of proposed finish to rear boundary of Dwelling Numbers 18-21 inclusive, given that the external facing shall be visible to the public realm,
  - (e) the omission of 1.8 metre high palisade fence surrounding creche facility and its replacement with a more decorative fence,
  - (f) details of proposed compensatory planting to offset the loss of trees/hedgerows to facilitate the proposed development,
  - (g) a revised lighting scheme which provides for a reduction in Lux levels along ecological corridors within the site, and
  - (h) details of signage for proposed creche facility.

**Reason:** In the interests of proper planning and sustainable development.



8. Details of the materials, colours and textures of all the external finishes to the proposed buildings shall be submitted to and agreed in writing with the planning authority prior to commencement of development.

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

9. The developer shall comply with all requirements of the planning authority in relation to roads, access, lighting and parking arrangements, including facilities for the recharging of electric vehicles. In particular:

- (a) The roads and traffic arrangements serving the site (including signage) 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.
- (b) The roads layout shall comply with the requirements of the Design Manual for Urban Roads and Streets, in particular carriageway widths and corner radii;
- (c) The materials used in any roads / footpaths provided by the developer shall comply with the detailed standards of the planning authority for such road works,
- (d) A detailed 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 interests of traffic, cyclist and pedestrian safety and to protect residential amenity.

10. 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.

11. The attenuation and disposal of surface water shall comply with the requirements of the planning authority for such works and services. Prior to the commencement of development, the developer shall submit details for the disposal of surface water from the site for the written agreement of the planning authority.

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

12. Prior to the commencement of development the developer shall enter into a Connection Agreement(s) with Uisce Éireann (Irish Water) to provide for a service connection(s) to the public water supply and/or wastewater collection network.

**Reason:** In the interest of public health and to ensure adequate water/wastewater facilities.

13. The site shall be landscaped in accordance with the detailed comprehensive scheme of landscaping, which accompanied the application submitted, unless otherwise agreed in writing with, the planning authority prior to commencement of development. The developer shall retain the services of a suitably qualified Landscape Architect throughout the life of the site development works. The approved landscaping scheme shall be implemented fully in the first planting season following completion of the development or each phase of the development and any plant materials that die or are removed within three years of planting shall be replaced in the first planting season thereafter.

**Reason:** To ensure a satisfactory completion and maintenance of the development in the interests of residential amenity and in the interests of protecting the environment.

14. Public lighting shall be provided in accordance with a scheme, which shall include lighting along pedestrian routes through open spaces, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development/installation of lighting.

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

15. Proposals for the development 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 signs, and apartment 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.

16. The construction of the development shall be managed in accordance with a Construction and 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, inter alia: details and location of proposed construction compounds, details of intended construction practice for the development, including noise and dust management measures, details of arrangements for routes for construction traffic, parking during the construction phase, and off-site disposal of construction/demolition waste.

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

17. Prior to commencement of development, 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) shall be prepared and submitted to the planning authority for written agreement. The RWMP shall include specific proposals as to how the RWMP will be measured and monitored for effectiveness. 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 reducing waste and encouraging recycling.

18. All service cables associated with the proposed development (such as electrical, communal television, telephone and public lighting cables) shall be run underground within the site. In this regard, ducting shall be provided to facilitate the provision of broadband infrastructure within the proposed development.

**Reason:** In the interest of orderly development and the visual amenities of the area.

19. 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 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.

20. The developer shall facilitate the archaeological appraisal of the site and shall provide for the preservation, recording and protection of archaeological materials or features which 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, and
- (b) employ a suitably-qualified archaeologist prior to the commencement of development.

The archaeologist shall assess the site and monitor all site development works. The assessment shall address the following issues:

- (i) the nature and location of archaeological material on the site, and
- (ii) the impact of the proposed development on such archaeological material. A report, containing the results of the assessment, shall be submitted to the planning authority and, arising from this assessment, the developer shall agree in writing with the planning authority details regarding any further archaeological requirements (including, if necessary, archaeological excavation) prior to commencement of construction works. 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 area and to secure the preservation (in-situ or by record) and protection of any archaeological remains that may exist within the site.



21. 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 on the land in accordance with the requirements of section 94(4) and section 96(2) and 96(3) (b), (Part V) of the Planning and Development Act 2000, as amended, unless an exemption certificate has been granted under section 97 of the Act, as amended. Where such an agreement cannot be reached between the parties, the matter in dispute (other than a matter to which section 96(7) applies) shall 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.

22. (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, as amended, 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.



23. 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.

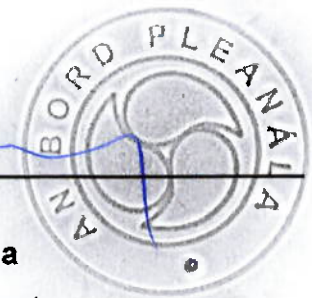
24. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the 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.

25. 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 a roundabout at the junction of the N71 and the L-4007-52 which shall be provided by Cork County Council and 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.

  
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**Martina Hennessy**  
**Member of An Bord Pleanála**  
**duly authorised to authenticate**  
**the seal of the Board**



Dated this 7<sup>th</sup> day of October 2024