

An  
Bord  
Pleanála

**Board Order**  
**ABP-320750-24**

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**Planning and Development Acts 2000 to 2022**

**Planning Authority: Cork County Council**

**Planning Register Reference Number: 236518**

**Appeal** by Peter Sweetman of P.O. Box 13611, Bantry, County Cork against the decision made on the 13th day of August, 2024 by Cork County Council to grant permission, subject to conditions, to Massey Developments Limited care of Edge Architecture Limited of Castlepoint, Schull, County Cork for the proposed development.

**Proposed Development:** Construction of a residential development of 62 number dwellinghouses and all ancillary works. The proposed development consists of four number detached housing units, 34 number semi-detached housing units, and 24 number terraced housing units. Ancillary site works include the provision of all associated site landscaping, public open spaces, a new public footpath (connecting to Masseytown Road via Cornmills) and servicing proposals. Vehicular access to the proposed development will be provided by a new entrance from the Mill Road, Maghereen, Kilnagurteen, Macroom, 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**

The Board performed its functions in relation to the making of its decision, in a manner consistent with Section 15(1) of the Climate Action and Low Carbon Act 2015, as amended by Section 17 of the Climate Action and Low Carbon Development (Amendment) Act 2021, (consistent with the most recent approved, climate action plan, national long term climate action strategy, national adaptation framework and approved sectoral adaptation plans, the furtherance of the national climate objective, and the objective of mitigating greenhouse gas emissions and adapting to the effects of climate change in the State);

and having regard to:

- (a) the location of the site within the development boundary of Macroom on lands zoned "Existing Residential/Mixed Residential and Other Uses" in the Cork County Development Plan 2022-2028,
- (b) the policies and objectives of the Cork County Development Plan 2022-2028,
- (c) Housing for All – A New Housing Plan for Ireland issued by the Department of Housing, Local Government and Heritage (2021),



- (d) Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities issued by the Department of Housing, Local Government and Heritage in January, 2024,
- (e) Guidelines for Planning Authorities on Sustainable Urban Housing: Design Standards for New Apartments issued by the Department of Housing, Planning and Local Government in March, 2018,
- (f) Urban Development and Building Heights, Guidelines for Planning Authorities issued by the Department of Housing, Planning and Local Government in December, 2018,
- (g) Design Manual for Urban Roads and Streets (DMURS) (2013),
- (h) Architectural Heritage Protection- Guidelines for Planning Authorities 2011,
- (i) The Planning System and Flood Risk Management Guidelines for Planning Authorities issued in November, 2009 (including the associated Technical Appendices),
- (j) the targets and objectives of the National Biodiversity Action Plan (NBPA) 2023-2030,
- (k) the nature, scale and design of the proposed development and the availability of water services infrastructure, including the upgrade works at Macroom Wastewater Treatment Plant,
- (l) the availability in the area of a wide range of social, community, transport and water services infrastructure,
- (m) the pattern of existing and permitted development in the area,
- (n) the submissions and observations received in connection with the planning application and the appeal, and

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- (o) the report and recommendation of the planning inspector

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 the area or the amenities of property in the vicinity, would be acceptable in terms of urban design, height and quantum of development, would be acceptable in terms of traffic and pedestrian safety, would not result in a risk of deterioration on any waterbody, nor impede the ability of the objectives of the Water Framework Directive, by reference to maintaining the high/good status either on a temporary or permanent basis, and would be acceptable in terms of environmental protection. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

### **Appropriate Assessment Screening**

The Board completed an Appropriate Assessment Screening exercise in relation to the potential effects of the proposed development on European Sites, taking into account the nature, scale and location of the proposed development, and the Inspector's report and submissions on file. In completing the screening exercise, the Board adopted the report of the Planning Inspector and concluded that by itself, or in combination with other development in the vicinity, the proposed development would not be likely to have a significant effect on any European Site in view of the sites' conservation objectives, and that a Stage 2 Appropriate Assessment (and submission of a Natura impact statement) is not, therefore, required.

## Conditions

1. The development shall be carried out 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 17<sup>th</sup> day of July 2024, 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 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.

3. Prior to the commencement of development on site, the applicant shall submit to, and agree in writing with, the planning authority details of the following:

- (a) the Mill Road overlay, and
- (b) fencing between the existing culvert and new public footpath linkage.

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

4. (a) A competent Environmental Clerk of Works shall be appointed to oversee the implementation of the mitigation measures and efficacy of controls as per application documents. This Environmental Clerk of Works shall have the authority to halt any works where a failure or risk of failure of any control(s) or unforeseen event arising during development, presents a potential for adverse public health or environment impacts until additional controls can be implemented.
- (b) The developer shall put in place a programme to ensure that members of the public can obtain information concerning all emissions from this activity. The programme shall be submitted to the planning authority for agreement within three months of the date of this order. The developer shall record all complaints received relating to site operations. The record shall contain the name of the complainant, nature, time and date of the complaint and a summary of the company's investigation and response. Details of these complaints shall be submitted to the planning authority every three months. The developer shall ensure that a responsible and suitably qualified person is available on the site at all times during which emissions to the environment are occurring. A designated member of the company's staff shall interface with the planning authority or members of the public in the event of complaints or queries in relation to environmental emissions.

**Reason:** To protect amenities and the environment.

5. (a) The mitigation measures contained in the submitted Ecological Impact Assessment submitted to the planning authority on the 18<sup>th</sup> day of December 2023 and as updated by Compliance Report submitted to the planning authority on the 17<sup>th</sup> day of July, 2024 shall be implemented.



- (b) All works shall be in accordance with the recommendations set out in Section 6 of the Bat Survey submitted to the planning authority on the 18<sup>th</sup> day of December 2023.
- (c) Swift (*Apus apus*) boxes shall be incorporated on the external walls of the development as outlined in the Compliance Report submitted to the planning authority on 17<sup>th</sup> day of July, 2024.
- (d) All works relating to tree removal and tree retention shall be implemented in accordance with measures specified in the Tree Survey received by the planning authority on the 17<sup>th</sup> day of July, 2024
- (e) A five metres buffer between the eastern boundary and the development shall be established. Fencing will be erected to protect it during construction. A compliance report shall be submitted to the planning authority at the end of the main construction period.
- (f) All works shall be supervised by an on-site Ecological Clerk of Works who will report on compliance with the relevant mitigation measures. The Ecological Clerk of Works shall be empowered to halt works where it is considered that the continuation of the works is likely to result in a significant pollution or siltation incident. In the event of a water pollution incident, or of damage to the adjacent river, these reports shall be made available to the relevant statutory authorities, and on-site works shall cease until authorized to continue by the planning authority. A compliance monitoring report shall be prepared by the Ecological Clerk of Works and shall be submitted to the planning authority at the end of the main construction period.

**Reason:** To protect species and/or habitats of high natural value, to protect the integrity of European Sites and biodiversity and to safeguard the amenities of the area.

6. 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.

7. No dwelling shall be made available by the developer for occupation, until written confirmation has been provided to the planning authority that the upgrade works to the Macroom Wastewater Treatment Plant are completed and commissioned.

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

8. Public lighting shall be provided in accordance with a scheme which shall be submitted to and agreed in writing with the planning authority prior to the commencement of development. The scheme shall include lighting along pedestrian routes through open spaces and shall take account of the agreed landscaping plan. Such lighting shall be provided prior to the making available for occupation of any residential unit.

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



9. 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.

10. 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. Prior to commencement of any development on the overall site, details of the first phase shall be submitted to, and 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.

11. A Construction and Environmental Management Plan (CEMP) shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development. The CEMP shall include but not be limited to construction phase controls for dust, noise and vibration, waste management, protection of soils, groundwaters, and surface waters, site housekeeping, emergency response planning, site environmental policy, and project roles and responsibilities.

**Reason:** In the interest of residential amenities, public health and safety and environmental protection.

12. Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Friday 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.

13. 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 for each dwelling house shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the agreed waste facilities shall be maintained and waste shall be managed in accordance with the agreed plan. 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:** To provide for the appropriate management of waste and, in particular recyclable materials, in the interest of protecting the environment.

14. Prior to commencement of development, a Resource Waste Management Plan (RWMP) as set out in the Environmental Protection Agency'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.

15. 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 interest of sustainable transport and safety.

16. The development hereby permitted shall be carried out and completed at least to the construction standards set out in the planning authority's Taking in Charge Policy. Following completion, the development shall be maintained by the developer, in compliance with these standards, until taken in charge by the planning authority.

**Reason:** To ensure that the development is carried out and completed to an acceptable standard of construction.

17. (a) The internal road network serving the proposed development including turning bays, junctions, parking areas, footpaths, and kerbs, and the underground car park shall comply with the detailed construction standards of the planning authority for such works and design standards outlined in Design Manual for Urban Roads and Streets (DMURS).
- (b) Footpaths shall be dished at road junctions in accordance with the requirements of the planning authority. Details of all locations and materials to be used shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development.

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

18. (a) The landscaping scheme, as submitted to the planning authority with the application, shall be carried out within the first planting season following substantial completion of external construction works bar the inclusion of Fuchsia and Berberis. 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 or until the development is taken in charge by the local authority, whichever is the sooner, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.
- (b) A suitably qualified arboricultural consultant shall be appointed and shall be responsible for tree protection during the course of construction works and to advise the Site Manager. Prior to works commencing the arborist shall liaise with the planning authority to

arrange a site visit to inspect tree protection measures and at key project stages thereafter.

**Reason:** To protect biodiversity and in the interest of residential and visual amenity.

19. The management and maintenance of the proposed development following its completion shall be the responsibility of a legally constituted management company. A management scheme providing adequate measures for the future maintenance of public open spaces, roads and communal areas shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

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

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 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.

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 (such agreement must specify the number and location of each house), 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.



22. 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 transfer of a percentage of the land, to be agreed with the planning authority, in accordance with the requirements of section 94(4) and section 96(2) and 96(3)(a), (Part V) of the Planning and Development Act 2000, as amended, and/or the provision of housing on lands 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 for the area.


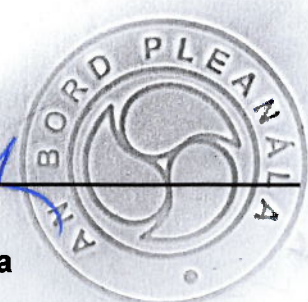
23. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion and maintenance until taken in charge by the local authority of roads, footpaths, watermains, 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 of the development until taken in charge.

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.

**Chris McGarry**

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

Dated this 23<sup>rd</sup> day of April 2025.