



An  
Bord  
Pleanála

## Inspector's Report

### ABP-304780-19

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<b>Development</b>	Permission and retention permission for alterations to permission granted under Reg. Ref. 17/448 for the construction of 13 no. dwellings.
<b>Location</b>	Gallanes, Clonakilty, Co. Cork
<b>Planning Authority</b>	West Cork County Council
<b>Planning Authority Reg. Ref.</b>	18/596
<b>Applicant(s)</b>	Gallanes Development Limited
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant Permission
<b>Type of Appeal</b>	Third Party V. Grant
<b>Appellant(s)</b>	Patrick O'Regan
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	23 <sup>rd</sup> September 2019
<b>Inspector</b>	Elaine Power

## 1.0 Site Location and Description

- 1.1. The subject site is located in Gallanes, approx. 2km north east of Clonakilty town centre and 300m east of the N71. The site is a backlands site, located to the rear of existing houses on the R600.
- 1.2. The subject site is irregular in shape and is locally elevated. It has a stated area of 2.2ha. The site accommodates 3 no. recently constructed dwellings and construction works are currently on-going on the remaining portion of the development as granted under reg. ref. 17/488.
- 1.3. Access to the site is from 5.5m wide right of way from the R600, between 2 no. existing houses. The access road is approx. 72m in length

## 2.0 Proposed Development

- 2.1. This is an application for permission and retention permission for alterations to a residential scheme of 13 no. houses previously approved under Reg. Ref. 17/488. The proposed alterations comprise the following: -
  - Retention permission for alterations to the elevations of House no. 2 to comply with building regulations and achieve a better BER rating
  - Retention permission of additional footpath constructed outside House no. 5 and associated alteration to the front boundary of House no. 5.
  - Retention permission of a 6m wide dropped kerb along the western side of the access road to facilitate access to the adjoining property.
  - Permission for alterations to the design of 7 no. dwellings. A number of minor alterations to house types A, A1, C and C1. These amendments are necessary to comply with building regulations and achieve a better BER rating. The amended layout of House types C and C1 includes an additional bedroom and living space.
  - Permission for the change of House No. 11 from house type D to house type C1.

- Permission for minor realignment of the road and footpath. This realignment is required due to the vast amount of rock present and the resulting levels that are achievable on site.
- The inclusion of a 6m wide opening of the western side of the entrance wall to facilitate a right of way from the adjoining property.

The proposed alterations result in the provision of 6 no. different house types ranging in size from 186sqm to 222.5sqm. All houses have 4 no. bedrooms.

## 2.2. ***Unsolicited Further Information lodged 16th November***

A response to a third-party submission was received. The submission did not result in any alterations to the proposed works.

## 2.3. ***Further Information lodged 25th January 2019***

Details of the Bond in place with the Local Authority and details of the proposed retaining structure, boundary screening treatments and vehicular barrier were submitted by way of further information.

## 2.4. ***Clarification of Further Information lodged 7<sup>th</sup> May 2019***

Details of the bond in place with the Local Authority and details of the overall design of the embankment and road vehicle barrier were submitted. The boundary treatments were revised to consist of a 800mm high stone wall along the entire length of the front boundary of the houses.

## 2.5. ***Unsolicited Further Information lodged 23<sup>rd</sup> May 2019***

The information submitted related to the bond in place with the Local Authority.

## 3.0 **Planning Authority Decision**

### 3.1. **Decision**

Permission was granted subject to 11 no. conditions.

**Condition 1** clarified that permission was granted for the development submitted by way of clarification of further information and unsolicited information.

**Condition 2** clarified that permission was granted subject to compliance with conditions of the parent permission. Reg. Ref. 17/488.

**Condition 4** archaeology condition

**Conditions 7 and 8** related to the details and certification of the retaining structure.

**Condition 10** required the retaining structure and vehicular barrier to be certified.

### 3.2. Planning Authority Reports

#### 3.2.1. Planning Reports

The initial reports by the Area Planner and Senior Executive Planner raised concerns regarding the proposed works and recommended that further information be sought regarding the following: -

- Details of the bond in place for the parent permission (Reg. Ref. 17/488).
- Detailed design of the retaining structure.
- Proposals for the screening treatment along the southern boundary of the site.
- Details of the vehicle barrier proposed.
- Details of compliance submission for boundary treatment between the individual houses.

The final reports from the Area Planner and Senior Executive Planner considered that all concerns had been fully addressed and recommended that permission be granted subject to conditions.

#### 3.2.2. Other Technical Reports

**Engineering** final report: No objection

**Estates Supplementary** report recommends conditions

**Environment** final report: No objection

**Archaeologist** report recommends conditions.

### 3.3. Prescribed Bodies

*Irish Water:* No objection

### 3.4. Third Party Observations

A third-party objection was received from Patrick O'Regan whose property is located to the south of the subject site. The concerns raised are similar to those in the third-party appeal submission.

## 4.0 Planning History

**Reg. Ref. 17/448:** Permission was granted in 2018 for alterations to Reg. Ref. 10/579 and Reg. Ref. 16/120 to provide 13 no. dwellings

**Reg. Ref. 10/579:** Permission was granted in 2011 for the construction of 11 no. houses. This permission was extended under Reg. Ref.16/120.

**PL04.212203, Reg. Ref. 04/7668:** Permission was granted in 2005 for the construction of 11 no. houses.

## 5.0 Policy Context

### 5.1. Cork County Development Plan, 2014

The subject site is located outside of the settlement boundary for Clonakilty and is zoned CK GB 1-2 – Greenbelt. The relevant policies of the Cork County Development Plan are set out below.

- RCI 5-8: Greenbelts around Settlements
- HOU 3-1: Sustainable Residential Communities
- HOU 3-2: Urban Design
- HOU 3-3: Housing Mix
- HOU 4-1: Housing Density on Zoned Land.
- SC 5-2: Quality Provision of Public Open Space
- SC 5-8: Private Open Space Provision
- TM 2-1: Walking

- TM 2-2: Cycling
- ZU 2-1: Development and Land Use Zoning
- ZU 2-2: Development Boundaries
- ZU 3-2: Appropriate Uses in Residential Areas

## 5.2. **National Planning Framework (2018)**

The relevant policies of the National Planning Framework which relate to creating high quality urban places and increasing residential densities in appropriate locations are set out below.

- Policy Objective 4
- Policy Objective 6
- Policy Objective 11
- Policy Objective 33
- Policy Objective 35

## 5.3. **National Guidance**

- Guidelines for Planning Authorities on Sustainable Residential Development in Urban Area (2009).

## 5.4. **Natural Heritage Designations**

The subject site is located approx. 1.6km north of Clonakilty Bay SPA (004081) and Clonakilty Bay SAC (000091).

## 5.5. **EIA Screening**

- 5.5.1. Having regard to the limited nature and scale of the proposed development and the absence of any connectivity to any sensitive location, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded. An EIA - Preliminary Examination form has been completed and a screening determination is not required.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

A third-party appeal was received from Patrick O'Regan. The issues raised are summarised below: -

- The proposed retaining structure along the southern boundary of the site, as submitted by way of further information was not noted in the public notices and constitutes a significant change. The structure is approx. 100m in length by 7m in height. A further 1.5m high fence is proposed on top of the structure. The structure would be visually obtrusive and would have a negative impact on the visual amenities of the area.
- The retaining structure replaces a sloping embankment previously approved under reg. ref. 17/488. Landscaping along the embankment previously included trees and hedges. The revised proposals are vague. The design of the retaining structure does not allow for maintenance of the proposed landscaping.

### 6.2. Applicant Response

The applicant's response is summarised below: -

- The proposed embankment does not form part of this application. The applicant has permission under reg. ref. 17/448 to construct the carriageway and resultant and necessary embankment.
- The current application seeks to relocate the previously approved carriageway away from the applicant's site and therefore reducing the impact on the adjoining neighbour.
- To avoid ambiguity there is no difference between a retaining structure and a sloping embankment. The layout previously approved would inevitably require a retaining structure for the safe construction of the roadway.
- The retaining structure would be located underneath the embankment and would be covered with vegetation. The proposed fence is a safety

requirement and would also be covered with vegetation and would not be visually obtrusive.

- The applicant has provided details which ensure that once the embankment is completed it would be structurally sound and covered in vegetation.
- Landscaping proposals have been provided with the submission which notes that the embankment would be planted with wild grasses, flowering with the seasons and creating a wildlife haven for birds and insects. The existing boundary hedge and vegetation is to be retained.

### 6.3. **Planning Authority Response**

No further comments.

### 6.4. **Further Responses**

In response to the applicant's submission the appellant has reiterated concerns raised regarding the retaining structure and its impact on the visual amenities of the adjoining site.

## 7.0 **Assessment**

7.1. The main issue in this appeal relates to the visual impact a retaining structure would have on the adjoining property. Appropriate Assessment requirements are also considered. I am satisfied that no other substantial planning issues arise. The main issues can be dealt with under the following headings:

- Principle of Development
- Visual Impact
- Appropriate Assessment

### 7.2. ***Principle of Development***

7.2.1. The subject site is located within the Greenbelt for Clonakilty. Permission was granted under reg. ref.17/448 for the construction of 13 no. houses and associated



works. This application is for permission and retention permission for minor amendments to the previously approved development. The applicant has stated that the main reason for the amendments to the houses is to comply with Building Regulations and achieve a better BER rating.

7.2.2. The amendments also include alterations to the internal roadway, including the provision of an additional footpath and the provision of a new 6m wide vehicular access along the western side of the internal access road to facilitate access to the adjoining property. The works to the roadway also result in minor alterations to the previously approved boundary treatments.

7.2.3. Have regard to the minor nature of the amendments, it is my opinion that, the proposed alterations to the houses and internal road layout would not negatively impact on the existing amenities of the area or result in any traffic safety issues and would be acceptable in principle.

### 7.3. *Visual Impact*

7.3.1. The layout of the development, which included the provision of an internal access road, was permitted under reg. ref. 17/448. Due to significant level differences, between the subject site and the adjoining property to the south, a retaining structure was provided to facilitate the construction of the roadway. The retaining structure comprises a retaining wall underneath an embankment. It is proposed that the embankment would be landscaped. The applicant has stated that the embankment is required for the safe construction and operation of the road.

7.3.2. The applicant has stated that the amendments to the previously approved road layout are due to the vast amount of rock present on the site and the resulting levels that are achievable.

7.3.3. Concerns were raised in the appeal regarding the negative visual impact the retaining structure would have on the adjoining property. The proposed alterations to the internal road layout result in the carriageway being relocated away from the appellants site and, therefore, result in a reduction in the slope of the previously approved embankment. As the retaining structure does not form part of this application and as the proposed works would lessen the visual impact of the

embankment, it is my view that the proposed works would not have a negative impact on the existing visual amenities of the adjoining property.

#### **7.4. *Appropriate Assessment***

7.4.1. Having regard to the nature and small scale of the proposed development and development to be retained and the distance from the nearest European site, no Appropriate Assessment issues arise, and it is not considered that the proposed development would be likely to have a significant effect, individually, or in combination with other plans or projects, on a European site.

### **8.0 Recommendation**

8.1. It is recommended that permission and retention permission be granted subject to conditions.

### **9.0 Reasons and Considerations**

Having regard to the provisions of the Cork County Development Plan 2014, the existing pattern of development in the area, and the minor nature and scale of the proposed amendments and of the amendments to be retained, it is considered that, subject to compliance with the conditions set out below, the proposed development and development to be retained would not seriously injure the amenities of the area. The development to be retained and completed would, therefore be in accordance with the proper planning and sustainable development of the area.

### **10.0 Conditions**

1. The development shall be retained, 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 7<sup>th</sup> day of May 2019 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. Apart from any departures specifically authorised by this permission, the development shall be carried out and completed in accordance with the terms and conditions of the permission(s) granted on 17/10/2017 under planning register reference number 17/488, and any agreements entered into thereunder.

**Reason:** In the interest of clarity and to ensure that the overall development is carried out in accordance with the previous permission(s).

3. Details of the retaining structures and the vehicle barrier shall be agreed in writing with the Planning Authority. A letter of certification shall be provided by the Design Engineer responsible for the retaining structures and vehicle barrier, confirming that the structures have been constructed as per the design.

Alternatively, this certification shall be provided by a suitably qualified structural design engineer, to the written approval of the Planning Authority.

**Reason:** In the interests of orderly development and residential amenity.

4. The applicant shall agree in writing with the planning authority landscaping proposals for the embankment along the southern boundary of the site. All works shall be carried out within the first planting season following substantial completion of external construction works.

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 interest of residential and visual amenity.

5. 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.

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Elaine Power  
Planning Inspector

2<sup>nd</sup> October 2019