

# Comhairle Contae Chorcaí Cork County Council

[REDACTED]  
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Via post & e-mail

4<sup>th</sup> April 2018

**Response to Motion: "That Cork County Council progress the Taking In Charge of Atlantic View estate in Myrtleville without delay pursuant to Section 180(4)(a) of the Planning Act 2000 and that a written report is given on the timeline for delivery of the taking in charge of the estate."**

It is not currently possible to provide a timeline for the delivery of the taking in charge of Atlantic View. By way of a brief history of the site: -

1. Planning Reg. No. 03/6757 - outline planning permission granted to Cornelius Hayes for four dormer bungalows
2. Planning Reg. No. 06/4105 - permission granted to Brian Doran for site development works for four dwellings
3. Planning Reg. No. 08/6647 - permission granted for a dwelling on Site No. 1
4. Planning Reg. No. 09/4046 - permission granted for a dwelling on Site No. 2
5. Planning Reg. No. 08/4362 - permission granted for a dwelling on Site No. 3
6. Planning Reg. No. 12/4270 - permission granted for a dwelling on Site No. 4
7. Planning Reg. No. 11/6397 – permission refused to to incorporate a section of the existing open space (as indicated under previous Pl. Reg. No. 03/6757) within the curtilage of an adjoining house, together with retention and completion of boundary treatment comprising of concrete post and timber fence to perimeter of said lands
8. Planning Reg. No. 15/4647 - permission granted by Cork County Council to the retention of an entrance and a boundary fence incorporating a different part of the site previously granted as open space under Planning Ref. No. 06/4105 within the curtilage of a second adjoining house – subsequently refused following a third party appeal to An Bord Pleanála

[REDACTED] developer of the estate roads and services, sold two areas of land, designated as open space within the granted permission, to adjacent landowners. The re-development of these lands has given rise to enforcement issues and to the two applications listed at 7 and 8 above. The failure to complete the estate in accordance with the governing permission has also given rise to enforcement issues.



One of the enforcement issues relates to non-compliance with Condition 4 of Planning Reg. No. 06/4105 which required that "A 2m high concrete block wall shall be erected around the perimeter of the existing house unless written evidence of agreement to an alternative arrangement by the owner is submitted to the Planning Authority." No boundary has been constructed around the perimeter of the existing house and the developer no longer owns the land on which it was to be constructed. The residents of the estate require the construction of this boundary and require that the full extent of the green areas indicated in Planning Reg. No. 06/4105 is provided.

The Planning and Development Act clearly states that "...a person shall not be entitled solely by reason of a permission under this section (i.e., Section 34) to carry out any development." The developer of the estate is no longer the owner of some of the lands designated as open space areas and on which the wall conditioned under planning ref. 06/4105 should be built; neither is the Planning Authority the owner of the lands. Construction of a boundary can only be carried out with the agreement of the landowner.

[REDACTED] and [REDACTED] offered to provide a mediation service, to all parties involved, to facilitate the resolution of matters onsite; this was not successful and therefore issues pertaining to the open space areas within the site remain unresolved. The Planning Authority may consider the taking in charge of roads, footpaths, public lighting and services, excluding the green areas in the absence of a resolution to the open space issues.

In spite of the third party land ownership issues, the Planning Authority has indicated to the residents that it is willing to take the estate in charge but that funding is not currently available to do so. Indeed, Cork County Council applied for funding to complete the estate under the National Taking in Charge initiative in May 2016 but the application was unsuccessful. No bond was put in place by the developer.

Yours sincerely,

[REDACTED SIGNATURE]

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