

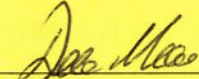
An
Coimisiún
Pleanála

Direction
CD-020864-25
ABP-322693-25

The submissions on this file and the Inspector's report were considered at a meeting held on 02/10/2025.

The Commission decided to grant permission generally in accordance with the Inspector's recommendation, for the following reasons and considerations, and subject to the following conditions.

Planning Commissioner:


Declan Moore

Date: 02/10/2025

DRAFT WORDING FOR ORDER

Reasons and Considerations

Having regard to:

- (a) the location of the site in the established Main Town of Schull on lands zoned SC-R-02 Medium B Density Residential Development (2.1 hectares) with the access road zoned Existing Residential (ER) and where residential development is a permitted use,
- (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 in September 2021,

- (d) the Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities issued by the Department of Housing, Local Government and Heritage in January 2024,
- (e) the updated 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 2023,
- (f) the updated Urban Development and Building Heights, Guidelines for Planning Authorities issued by the Department of Housing, Planning and Local Government in December 2020,
- (g) the Design Manual for Urban Roads and Streets (DMURS) issued by the Department of Transport in April 2013,
- (h) the Architectural Heritage Protection- Guidelines for Planning Authorities issued by the Department of Arts, Heritage and Local Government in October 2011,
- (i) the Planning System and Flood Risk Management Guidelines for Planning Authorities issued by the Department of the Environment, Heritage and Local Government in November 2009 (including the associated Technical Appendices),
- (j) the targets and objectives of the National Biodiversity Action Plan (NBPA) 2023-2030,
- (k) the Climate Action Plan 2024 and Climate Action 2025,
- (l) the nature, scale and design of the proposed development,
- (m) the availability in the area of a wide range of social, community, transport and water services infrastructure,
- (n) the pattern of existing and permitted development in the area, and
- (o) the submissions and observations received in connection with the planning application and the appeal,
- (p) the manner in which the dwellings have been integrated into the topography of the site,
- (q) Section 5.13 of the Development Management Guidelines for Planning Authorities (June 2007) which states the following in relation to ownership/title disputes:

"In any event, the planning system is not designed as a mechanism for resolving disputes about title to land or premises or rights over land, these are ultimately matters for resolution in the Courts."

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 and would be acceptable in terms of traffic and pedestrian safety. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

Conditions

1. The development shall be carried out in accordance with the plans and particulars lodged with the application, as amended by the documents/drawings received by the planning authority on the 11th and 17th days of September 2024, the 19th day of March 2025 and the 2nd day of May 2025, 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) The applicant shall submit design details of a looped traffic light signalisation system to be installed at the Chestnut Grove access entrance junction with the Colla Road/L-4407-54 for the written agreement of the planning authority, prior to the commencement of any development on site.
(b) The pedestrian gate shown on Drawing Number 23021-OMP-00-SP-DR-A-1002 exiting onto Chestnut Grove shall be omitted, unless agreement is reached with the owner of 1 Chestnut Grove on the details of the gate and the Planning Authority approves said details, or, an agreement is reached between the (3) parties on an alternate location for a pedestrian gate

Reason: In the interest of pedestrian, cyclist and motorist safety and traffic management.

3. (a) The internal road network serving the proposed development, including carriageway widths, corner radii, turning bays, junctions, set down/drop off area(s), parking areas, footpaths, kerbs, pedestrian crossings, raised tables, and cycle lanes 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 and the National Cycle Manual issued by the National Transport Authority. In default of agreement the matter(s) in dispute shall be referred to An Coimisiún Pleanála for determination.
- (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.
- (c) Any interference with or damage to the road or footpath in the area caused during the construction of the development shall be made good at the expense of the developer to the confirmed written satisfaction of the planning authority. Evidence of all agreements shall be submitted to the planning authority within one month of said agreement(s).
- (d) The applicant shall submit a detailed design for the resurfacing of Colla Road/the L-4407-54, including road markings, for a distance of 50 metres in both directions from the centre of the Chestnut Grove access entrance junction with the Colla Road/L-4407-54 for the written agreement of the planning authority, prior to the commencement of any development on site.
- (e) The applicant shall provide a revised final detailed drawing of the Chestnut Grove access entrance and Colla Road/L-4407-54 junction for the written agreement of the planning authority, prior to the commencement of any development on site.
- (f) The existing Chestnut Grove access road and entrance and Colla Road/L-4407-54 resurfacing works shall be fully completed and fully operational to the satisfaction of the planning authority prior to commencement of any construction works within the proposed development site.

Reason: In the interests of traffic and pedestrian safety.

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

Reason: To protect the integrity of European Sites.

5. Mitigation and monitoring measures outlined in the plans and particulars, including the Ecological Impact Assessment, Construction Environmental Management Plan and Alien Species Management Plan submitted with the application shall be carried out in full, except where otherwise required by conditions attached to this permission.

Reason: In the interests of protecting the environment, public health, and clarity.

6. Prior to the commencement of development, Japanese Knotweed (*Fallopia japonica*), Giant Rhubarb (*Gunnera tinctoria*), Montbretia (*Crocasmia x crocosmiiflora*) and Winter heliotrope (*Petasites pyrenaicus*) shall be treated and removed from the site by an Invasive Alien Species specialist, in accordance with the Invasive Alien Species Management Plan submitted on the 19th day of March 2025 and subject to the agreement of the following details with the planning authority:
 - (a) should invasive species burial take place on site, the burial site shall be re-positioned to ensure that existing mature trees proposed within the northern part of the which are proposed to be retained are not impacted,
 - (b) a root barrier membrane shall be put in place within parts of the site where Japanese Knotweed is required to be removed to prevent any future spread of knotweed infestations into the works area. This shall be designed and specified by a licenced invasive species contractor and shall form part of the Invasive Alien Species Management Plan,
 - (c) The Invasive Alien Species specialist shall certify to the planning authority that the site is free from contamination, prior to the commencement of construction works on the site, and

- (d) removal or disposal of Japanese Knotweed (*Fallopia japonica*) and Giant Rhubarb (*Gunnera tinctoria*) or soils potentially contaminated with these species from this site may only be carried out under license from the National Parks and Wildlife Service.

Reason: To prevent the spread of invasive species.

7. All roads and footpaths/cycleways shown to adjoining lands shall be constructed up to the boundaries to provide access to adjoining lands with no obstruction including the erection of any structure which would otherwise constitute exempted development under the Planning and Development Regulations 2001, as amended. These areas shall be shown in a revised site plan drawing (or a taking in charge drawing) which shall be submitted to and agreed in writing with the planning authority prior to commencement of development.

Reason: In the interest of permeability and proper planning and sustainable development.

8. 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 and shall ensure that the appropriate section of access road, footpath, lighting, open space, landscaping and infrastructural services benefitting the particular dwellings are fully completed prior to those dwellings being occupied

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

9. (a) Prior to the commencement of any house or duplex unit in 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 houses and duplex 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 specified house or duplex unit 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.

10. Prior to commencement of development, proposals for a development name and numbering scheme, and associated signage shall be submitted to, and agreed in writing with, the planning authority. Thereafter, all such names and numbering shall be provided in accordance with the agreed scheme. 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 for new residential areas.

11. Details of the materials, colours, and textures of all the external finishes to the proposed buildings and boundary treatments shall be as submitted with the application, unless otherwise agreed in writing with the planning authority.

Reason: In the interest of visual amenity.

12. Landscaping of the site shall be in accordance with the Landscape Plan submitted to the planning authority at further information stage on the 11th day of September 2024. This plan shall be implemented in full within the first year following completion of the development. Any trees that die or are removed within three years of planting shall be replaced in the first planting season thereafter.

Reason: To ensure the protection of biodiversity generally.

13. Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Fridays inclusive, 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.

14. 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 interests of amenity and public safety.

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

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

16. (a) 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.
- (b) A detailed survey of existing foul sewer and storm sewer in the public road shall be submitted for the written agreement of the planning authority, prior to the commencement of any development onsite.
- (c) Details of the 'safety margin' to account for variations in permeability, future land use changes and climate-related rainfall increases as submitted in storm water design calculations for both the proposed development and the Copper Point Estate shall be submitted for the written agreement of the planning authority, prior to the commencement of any development onsite.

- (d) The stormwater system, road gulleys, pipe network and Bio-retention areas shall be maintained over time to ensure they work at full capacity. Details shall be agreed with the planning authority in writing prior to commencement of work on site.
- (e) No dwelling shall be occupied until the water and sewage services serving such dwellings are installed and functioning in accordance with the connection agreement made with Uisce Éireann.

Reason: In the interest of public health and to ensure the appropriate disposal of foul and surface water.

17. 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 interests of visual and residential amenity.

18. Prior to commencement of development and/or occupation of the residential units, as applicable, the final Road Safety Audit(s) and/or Quality Audit(s) of the development, including the main entrance, internal road, pedestrian/ cycle path layouts, shall be submitted to, and agreed in writing with, the planning authority.

Reason: In the interests of traffic, pedestrian and cyclist safety, and sustainable transport.

19. 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 Construction and Environmental Management Plan 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 interests of environmental protection residential amenities, public health and safety and environmental protection.

20. 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 sustainable transport and safety.

21. The applicant and the development's Contractor shall develop and implement a Public Liaison Plan for the duration of the works, covering the following:
- (a) appointment of a Liaison Officer as a single point of contact to engage with the local community and respond to concerns,
 - (b) keeping local residents informed of progress and timing of particular construction activities that may impact on them,
 - (c) provision of a notice at the site entrance identifying the proposed means for making a complaint, and
 - (d) maintenance of a complaints log recording all complaints received and follow up actions.

Reason: In the interest of the proper planning and sustainable development of the area.

22. An Operational Waste Management Plan (OWMP) containing details for the management of waste within the development, the provision of facilities for the storage, separation, and collection of the waste and for the ongoing operation of these facilities, shall be submitted to, and agreed in writing with, the planning authority not later than six months from the date of commencement of the development. Thereafter, the waste shall be managed in accordance with the agreed Operational Waste Management Plan.

Reason: In the interest of residential amenity, and to ensure the provision of adequate refuse storage for the proposed development.

23. Prior to the 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 Resource Waste Management Plan shall include specific proposals as to how the Resource Waste Management Plan will be measured and monitored for effectiveness. All records (including for waste and all resources) pursuant to the agreed Resource Waste Management Plan shall be made available for inspection at the site office at all times.

Reason: In the interest of the proper planning and sustainable development.

24. (a) The management and maintenance of the 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 so taken in charge.
- (b) The communal open spaces, hard and soft landscaping, car and cycle parking areas, access ways, refuse/bin storage, and all areas not intended to be taken in charge by the local authority, shall be maintained by the legally constituted management company.
- (c) Details of the management company contract, and drawings/ particulars describing the parts of the development for which the company would have responsibility, shall be submitted to, and agreed in writing with, the planning authority before any of the residential units are made available for occupation.

Reason: In the interest of orderly development and to provide for the satisfactory future maintenance of this development.

25. The developer shall engage a suitably qualified (licensed eligible) archaeologist to monitor (licensed under the National Monuments Acts) all site clearance works, topsoil stripping, groundworks, dredging and/or the implementation of agreed preservation in-situ measures associated with the development following consultation with the Local Authority Archaeologist. Prior to the commencement of such works the archaeologist shall consult with and forward to the Local Authority Archaeologist or the National Monument Service as appropriate a method statement for written agreement. The use of appropriate tools and/or machinery to ensure the preservation and recording of any surviving archaeological remains shall be necessary. Should archaeological remains be identified during the course of archaeological monitoring, all works shall cease in the area of archaeological interest pending a decision of the planning authority, in consultation with the National Monuments Service, regarding appropriate mitigation. The developer shall facilitate the archaeologist in recording any remains identified. Any further archaeological mitigation requirements specified by the planning authority, following consultation with the National Monuments Service, shall be complied with by the developer.

Following the completion of all archaeological work on site and any necessary post-excavation specialist analysis, the planning authority and the National Monuments Service shall be furnished with a final archaeological report describing the results of the monitoring and any subsequent required archaeological investigative work/excavation required. All resulting and associated archaeological costs shall be borne by the developer.

Reason: To ensure the continued preservation either in situ or by record of places, caves, sites, features or other objects of archaeological interest.

26. 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 sections 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 Coimisiún 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.

27. 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 and/or management company 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 Coimisiún Pleanála for determination.

Reason: To ensure the satisfactory completion and maintenance of the development until taken in charge.

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 Coimisiún 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.