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## **Planning and Development Acts 2000 to 2019**

### **Planning Authority: Cork City Council**

**Application** for permission under section 4 of the Planning and Development (Housing) and Residential Tenancies Act 2016, in accordance with plans and particulars, lodged with An Bord Pleanála on the 11<sup>th</sup> day of June 2020 by O'Flynn Construction Company Unlimited Company care of McCutcheon Halley, 6 Joyce House, Barrack Square, Ballincollig, Co. Cork.

#### **Proposed Development:**

A planning permission for a strategic housing development at Old Fort Road, Ballincollig, Cork.

The development will consist of:

- (a) The construction of 123 number residential units in three number blocks which range in height from three to six storeys and comprising a mix of one and two bed apartments,
- (b) One number creche / childcare facility, internal residential amenity space and resident's gym,
- (c) The provision of landscaping and amenity areas including play / amenity areas at podium level,
- (d) The provision of a set-down area, footpaths, cycle lane and table-top junction arrangement at the access to the development on the Old Fort Road.

- (e) All associated ancillary development to include pedestrian / cyclist facilities, lighting, drainage, boundary treatments, bin storage, plant, Electricity Supply Board sub-station and bicycle, motorbike and car parking provided at ground and under-croft level.

## **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.**

## **Matters Considered**

In making its decision, the Board had regard to those matters to which, by virtue of the Planning and Development Acts and Regulations made thereunder, it was required to have regard. Such matters included any submissions and observations received by it in accordance with statutory provisions.

## **Reasons and Considerations**

In coming to its decision, the Board had regard to the following:

- (a) the central location of the site and the town centre zoning objectives in the Ballincollig Carrigaline Municipal District Local Area Plan 2017, wherein residential use is permissible in principle,
- (b) the Guidelines for Sustainable Residential Developments in Urban Areas and the accompanying Urban Design Manual, A Best Practice Guide, issued by the Department of the Environment, Heritage and Local Government in May 2009,
- (c) the Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities issued by the Department of the Environment, Community and Local Government in March 2018,

- (d) the Design Manual for Urban Roads and Streets (DMURS) issued by the Department of Transport, Tourism and Sport and the Department of the Environment, Community and Local Government in March 2019, as amended,
- (e) the nature, scale and design of the proposed development,
- (f) the availability in the area of a wide range of social infrastructure in proximity to the site,
- (g) to the pattern of existing and permitted development in the area,
- (h) the submissions and observations received by An Bord Pleanála in relation to this application,
- (i) the Chief Executive's Report from the planning authority,
- (j) the report of the planning inspector.

### **Appropriate Assessment Screening**

The Board completed an Appropriate Assessment screening exercise in relation to the potential effects of the proposed development on designated European sites, taking into account the nature, scale and location of the proposed development within a zoned and serviced urban area, the Appropriate Assessment Screening Report submitted with the application, the Inspector's report, and submissions on file. In completing the screening exercise, the Board adopted the report of the 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 conservation objectives of such sites, and that a Stage 2 Appropriate Assessment is not, therefore, required.

## **Environmental Impact Assessment Screening**

The Board completed an environmental impact assessment screening of the proposed development and considered that the Environmental Impact Assessment Screening Report submitted by the developer, identifies and describes adequately the direct, indirect, secondary, and cumulative effects of the proposed development on the environment.

Having regard to:

- (a) the nature and scale of the proposed development on an urban site served by public infrastructure,
- (b) the absence of any significant environmental sensitivities in the area, and
- (c) the location of the development outside of any sensitive location specified in article 109(3) of the Planning and Development Regulations 2001 (as amended),

the Board concluded that, by reason of the nature, scale and location of the subject site, the proposed development would not be likely to have significant effects on the environment. The Board decided, therefore, that an environmental impact assessment report for the proposed development was not necessary in this case.

## **Conclusions on Proper Planning and Sustainable Development**

The Board considered that, subject to compliance with the conditions set out below, the proposed development would constitute an acceptable quantum and density of development in this accessible urban location, would not seriously injure the residential or visual amenities of the area, would be acceptable in terms of urban design, height and quantum of development and would be acceptable in terms of pedestrian safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area. In coming to this conclusion, specific regard was had to the Chief Executive Report from the planning authority.

## Conditions

1. The proposed development shall be carried out and completed in accordance with the plans and particulars lodged with the, 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, or as otherwise stipulated by conditions hereunder, and the proposed development shall be carried out and completed in accordance with the agreed particulars. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

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

2. Prior to the commencement of development on the site details in respect of the following shall be submitted to and agreed in writing with the planning authority.
  - (a) Provision for own-door access from Apartments A.001 – A.004, A.105 – A.108, B.101 – B.107, C.101 – C.103, A.209 – A.210, B.209 – B.210 inclusive, to communal areas or Old Fort Road via their balconies / terrace areas.
  - (b) Measures to protect and enhance the privacy of apartment C107 having regard to its proximity to the adjoining road and footpath.
  - (c) The Electricity Supply Board substation shall be relocated to a position outside of the drainage wayleave.

**Reason:** In the interests of traffic safety and residential amenity and the encouragement of sustainable transport modes.

3. A Quality Audit, incorporating a Street Design Audit in accordance with Advice Note 4 of the Design Manual for Urban Roads and Streets (DMURS) shall be undertaken in respect of the development. The scope of the audit shall be submitted to and agreed in writing with the planning authority and shall include gradients along internal access routes. All findings of the audit shall be incorporated into the development, unless otherwise agreed in writing with the planning authority.

**Reason:** In the interests of pedestrian and cycle safety and convenience.

4. Final design details with regard to the proposed raised table / shared surface at the junction of the development access road and Old Fort Road shall be submitted to and agreed in writing with the planning authority prior to the commencement of development on the site. Such details shall include the final design of pedestrian crossings, surface materials and the design of traffic islands. The final design shall adhere to the provisions of the Design Manual for Urban roads and Streets (DMURS).

**Reason:** In the interest of road safety.

5. A Stage 2, 3 and 4 Road Safety Audit shall be undertaken in respect of the proposed development. The audits and associated design responses shall be submitted to and agreed in writing with the planning authority.

**Reason:** In the interest of road safety.

6. (a) Use of the proposed gym shall be restricted to residents of the proposed development and any change of use of this facility shall be subject to a grant of planning permission.
- (b) Use of the proposed creche shall be restricted to uses which fall within Class 8 of Part 4 of Schedule 2 of the Planning and Development Regulations 2001-2019.

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

7. Details of the materials, colours and textures of all the external finishes to the proposed dwellings / buildings shall be as submitted with the application, unless otherwise agreed in writing with, the planning authority prior to commencement of development. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

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

8. No additional development shall take place above roof parapet level, including lift motor enclosures, air handling equipment, storage tanks, ducts or other external plant, telecommunication aerials, antennas or equipment, unless authorised by a further grant of planning permission.

**Reason:** To protect the residential amenities of property in the vicinity and the visual amenities of the area.

9. Proposals for a development naming and 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 dwelling numbers, shall be provided in accordance with the agreed scheme. The proposed names 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 of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name.

**Reason:** In the interest of urban legibility and to ensure the use of locally appropriate place names for new residential areas.

10. (a) The car parking facilities hereby permitted shall be reserved solely to serve the proposed development. 92 number clearly identified car parking space shall be assigned permanently for the residential development and shall be reserved solely for that purpose. These residential spaces shall not be utilised for any other purpose, including for use in association with any other uses of the development hereby permitted, unless the subject of a separate grant of planning permission.
- (b) Bicycle parking rooms below Block B and C shall be provided with direct access and shall avoid the requirement for movement of bicycles through two doorways.
- (c) Prior to the occupation of the development, a Parking Management Plan shall be prepared for the development and shall be submitted to and agreed in writing with the planning authority. This plan shall provide for the permanent retention of the designated residential parking spaces and shall indicate how these and other spaces within the development shall be assigned, segregated by use and how the car park shall be continually managed.

**Reason:** To ensure that adequate parking facilities are permanently available to serve the proposed residential units.



11. Prior to the occupation of the development, a Mobility Management Strategy shall be submitted to and agreed in writing with the planning authority. This shall provide for incentives to encourage the use of public transport, cycling, walking and carpooling by residents / occupants / staff employed in the development and to reduce and regulate the extent of parking. The mobility strategy shall be prepared and implemented by the management company for all units within the development. The strategy shall be subject to annual review with the planning authority.

**Reason:** In the interest of encouraging the use of sustainable modes of transport.

12. A minimum of 10% of all car parking spaces shall be provided with electric vehicle charging stations / points, and ducting shall be provided for all remaining car parking spaces facilitating the installation of electric vehicle charging points / stations at a later date. Where proposals relating to the installation of electric vehicle ducting and charging stations / points has not been submitted with the application, in accordance with the above noted requirements, the development shall submit such proposals shall be submitted and agreed in writing with the planning authority prior to the occupation of the development.

**Reason:** To provide for and / or future proof the development such as would facilitate the use of electric vehicles

13. The developer shall enter into water and / or wastewater connection agreement(s) with Irish Water, prior to commencement of development. The developer must demonstrate separation distances can be achieved prior to commencement of any works on site in respect of minimum horizontal distance between the existing Irish Water infrastructure to the new unit buildings.

Where a diversion is required, the developer must enter into a diversion agreement with Irish Water prior to commencement of any works on site.

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

14. (a) Drainage arrangements including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

(b) The diversion of the 900-millimetre storm sewer shall be completed prior to the commencement of any construction activities in the vicinity of the exiting storm sewer. Full details of such works shall be submitted to and agreed in writing with the planning authority prior to the commencement of development.

(c) Prior to commencement of development the developer shall submit to the planning authority for written agreement a Stage 2 - Detailed Design Stage Storm Water Audit.

(d) Upon Completion of the development, a Stage 3 Completion Stormwater Audit to demonstrate Sustainable Urban Drainage System measures have been installed, and are working as designed and that there has been no misconnections or damage to storm water drainage infrastructure during construction, shall be submitted to the planning authority for written agreement.

**Reason:** In the interest of public health and surface water management

15. Public lighting shall be provided in accordance with a scheme, which shall include lighting along pedestrian routes through open spaces final details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The design of the lighting scheme shall take account of existing public lighting in the surrounding area. Such lighting shall be provided prior to the making available for occupation of any dwelling unit.

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

16. (a) The site shall be landscaped and earthworks carried out 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.

(b) Details of the boundary treatment of balconies / terraces and planted privacy strips for Apartments A.001 – A.004 inclusive, podium level apartments for Blocks A, B and C and street level apartments with frontage to Old Fort Road, shall be submitted to and agreed in writing with the planning authority.

**Reason:** In the interests of residential and visual amenity

17. The areas of public open space shown on the lodged plans shall be reserved for such use and shall be levelled, contoured, soiled, seeded, and landscaped in accordance with the landscape scheme submitted to An Bord Pleanála with this application, unless otherwise agreed in writing with the planning authority. This work shall be completed before any of the dwellings are made available for occupation.

**Reason:** In order to ensure the satisfactory development of the public open space areas, and their continued use for this purpose.

18. (a) Prior to commencement of development, all trees, groups of trees, hedging and shrubs which are to be retained shall be enclosed within stout fences not less than 1.5 metres in height. This protective fencing shall enclose an area covered by the crown spread of the branches, or at minimum a radius of two metres from the trunk of the tree or the centre of the shrub, and to a distance of two metres on each side of the hedge for its full length, and shall be maintained until the development has been completed.
- (b) No construction equipment, machinery or materials shall be brought onto the site for the purpose of the development until all the trees which are to be retained have been protected by this fencing. No work is shall be carried out within the area enclosed by the fencing and, in particular, there shall be no parking of vehicles, placing of site huts, storage compounds or topsoil heaps, storage of oil, chemicals or other substances, and no lighting of fires, over the root spread of any tree to be retained.
- (c) Excavations in preparation for foundations and drainage, and all works above ground level in the immediate vicinity of trees identified for protection and retention on Tree Survey drawing number 6752-100-0, as submitted with the application, shall be carried out under the supervision of a specialist arborist, in a manner that will ensure that all major roots are protected and all branches are retained.
- (d) No trench, embankment or pipe run shall be located within three metres of any trees, shrubs, hedging which are to be retained on the site.

**Reason:** To protect trees and planting during the construction period in the interest of visual amenity.

19. A schedule of landscape maintenance shall be submitted to, and agreed in writing with, the planning authority prior to occupation of the development. This schedule shall cover a period of at least three years and shall include details of the arrangements for its implementation.

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

20. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company or such other security as may be accepted in writing by the planning authority, to secure the protection of the trees on site and to make good any damage caused during the construction period, coupled with an agreement empowering the planning authority to apply such security, or part thereof, to the satisfactory protection of any tree or trees on the site or the replacement of any such trees which die, are removed or become seriously damaged or diseased within a period of three years from the substantial completion of the development with others of similar size and species. 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 secure the protection of the trees on the site.

21. Trees to be removed on site shall be felled in late summer or autumn. Any disturbance to bats on site shall be in a manner to be agreed in writing with the planning authority on the advice of a qualified ecologist.

**Reason:** In the interest of nature conservation.

22. 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 occupation of the development.

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

23. (a) 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 and for the ongoing operation of these facilities for each apartment unit 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 plan.

(b) 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:** In the interest of residential amenity, and to ensure the provision of adequate refuse storage.

24. Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the “Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects”, published by the Department of the Environment, Heritage and Local Government in July 2006. The plan shall include details of waste to be generated during site clearance and construction phases, and details of the methods and locations to be employed for the prevention, minimisation, recovery and disposal of this material in accordance with the provision of the Waste Management Plan for the Region in which the site is situated.

**Reason:** In the interest of sustainable waste management.

25. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including:

- (a) Location of the site and materials compounds including areas identified for the storage of construction refuse,
- (b) Location of areas for construction site offices and staff facilities,
- (c) Details of site security fencing and hoardings,
- (d) Details of on-site car parking facilities for site workers during the course of construction,
- (e) Details of the timing and routing of construction traffic to and from the construction site and associated directional signage, to include proposals to facilitate the delivery of abnormal loads to the site. Construction access shall not be provided from Waltham Abbey,

- (f) Measures to obviate queuing of construction traffic on the adjoining road network,
- (g) Measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network,
- (h) Alternative arrangements to be put in place for pedestrians, cyclists and vehicles in the case of the closure of any public road or footpath during the course of site development works,
- (i) Details of appropriate measures to mitigate vibration from construction activity in accordance with BS6472: 1992 Guide to Evaluation of Human Exposure to Vibration in Buildings (one hertz to 80 hertz) and BS7385: Part 2 1990: Evaluation and Measurement for Vibration in Buildings - Guide to Damage Levels from Ground-Borne Vibration, and for the monitoring of such levels,
- (j) Details of appropriate mitigation measures for noise and dust, and monitoring of such levels,
- (k) Containment of all construction-related fuel and oil within specially constructed bunds to ensure that fuel spillages are fully contained. Such bunds shall be roofed to exclude rainwater,
- (l) Off-site disposal of construction / demolition waste and details of how it is proposed to manage excavated soil,
- (m) Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains,
- (n) A record of daily checks that the works are being undertaken in accordance with the Construction Management Plan shall be kept for inspection by the planning authority.

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



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

27. Prior to commencement of development, the developer 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 section 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 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.

28. 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.

29. 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,
- (b) employ a suitably qualified archaeologist prior to the commencement of development. The archaeologist shall assess the site and monitor all site development works and shall undertake a pre- and post-construction survey of the historic lime kiln and cum store to the north of the site.

The assessment shall address the following issues:

- (i) the nature and location of archaeological material on the site and surrounding area,
- (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 and protection of any archaeological remains that may exist within the site.

