



Planning and Development Acts 2000 to 2021

Planning Authority: Cork City Council

Planning Register Reference Number: T.P. 21/40189

Appeal by Frank O'Brien of Ballycannon, Kerry Pike, Cork and by O'Flynn Construction (Co.) Unlimited Company care of Coakley O'Neill Town Planning Limited of NSC Campus, Mahon, Cork against the decision made on the 23rd day of December, 2021 by Cork City Council to grant subject to conditions a permission to the said by O'Flynn Construction (Co.) Unlimited Company in accordance with plans and particulars lodged with the said Council.

Proposed Development: The construction of 60 number dwellings involving a change of layout and design from that previously permitted on this site under Cork County Council Register Reference Number 01/3726, subsequently extended under Cork County Council Register Reference Number 13/4089 and Cork County Council Register Reference Number 18/4591 and further amended under Cork County Council Register Reference Number 17/6275 and Cork County Council Register Reference Number 18/6729. The proposed development includes an increase in the number of houses proposed from the previously permitted 32 detached dwellings to 60 dwellings, consisting of two number detached dwellings, 42 semi-detached dwellings and 16 terraced dwellings, changes to house design, and includes all ancillary site development works at Kilronan, Ballycannon, Kerrypike, 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

Having regard to the provisions of the Cork City Development Plan 2022-2028, the 'ZO 1 Sustainable Residential Neighbourhoods' zoning of the site, the pattern of development in the area and the layout and design of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the visual or residential amenities of the area or of property in the vicinity and would be acceptable in terms of pedestrian and traffic safety and convenience. 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 and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars received on the 3rd day of September, 2021 and the 26th day of November 2021, 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. Prior to the commencement of development, the applicant shall submit for the written agreement of the planning authority, revised plans to show the omission of the farm access through the proposed estate.

Reason: In the interests of orderly development and of vehicular and pedestrian safety.

3. The permitted development is for the construction of 59 number houses only (14 number four-bedroom houses, 37 number three-bedroom houses and eight number two-bedroom houses) on the subject site.

Reason: In the interest of clarity.

4. 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: To prevent flooding and in the interest of sustainable drainage.

5. (a) All foul sewage and soiled water shall be discharged to the public foul sewer. Details of proposals to discharge and connect to the existing wastewater network in Kerry Pike, shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of any development on the site.

(b) Only clean, uncontaminated stormwater shall be discharged to the surface water drainage system.

Reason: In the interest of public health.

6. Prior to the commencement of development, the developer shall enter into water and/or wastewater connection agreement(s) with Uisce Éireann (formerly Irish Water).

Reason: In the interest of public health.

7. The site access arrangements and the internal road network serving the proposed development, including turning bays, junctions, parking areas, footpaths and kerbs, shall be in accordance with the detailed requirements of the planning authority for such works. Details of the site access arrangements and the internal road network serving the proposed development shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development.

All residential parking spaces shall be constructed so as to be capable of accommodating future electric vehicle charging points with a minimum 10% of spaces to be fitted with functional electric vehicle charging points.

Reason: In the interests of amenity and of pedestrian and traffic safety.

8. Details of the materials, colours and textures of all the external finishes to the proposed development shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

9. The site shall be landscaped, generally in accordance with the Landscape Masterplan and Landscape Information drawings submitted to the planning authority on the 26th day of November 2021, in accordance with the detailed requirements of the planning authority. Detailed landscaping proposals shall be submitted to, and agreed in writing with the planning authority, prior to commencement of development.

Reason: In the interest of visual amenity and biodiversity.

10. 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. All existing over ground cables crossing or bounding the site shall be relocated underground as part of the site development works at the developer's expense.

Reason: In the interests of visual and residential amenity.

11. (a) The areas of the development for taking in charge shall be agreed in writing with the planning authority, prior to the commencement of development on site.
- (b) All areas not intended to be taken in charge by the local authority, shall be maintained by a 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: To provide for the satisfactory future maintenance of the development in the interest of residential amenity.

12. Proposals for the development name 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 signs and numbers shall be provided in accordance with the agreed scheme. 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.

13. No residential unit shall be occupied until all roads, footpaths, public lighting, underground services, car parking and landscaping have been completed to the satisfaction of the planning authority.

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

14. All necessary measures shall be taken by the contractor to prevent the spillage or deposit of clay, rubble or other debris on adjoining roads during the course of the works.

Reason: To protect the amenities of the area.

15. Prior to the commencement of any works associated with the development hereby permitted, the developer shall submit a detailed Construction Environmental Management Plan (CEMP) for the written agreement of the planning authority. The CEMP shall incorporate details for the following: collection and disposal of construction waste, surface water run-off from the site, on-site road construction, and environmental management measures during construction, including noise control, dust and vibration control and monitoring of such measures. A record of daily checks that the construction works are being undertaken in accordance with the CEMP shall be kept at the construction site office for inspection by the planning authority. The agreed CEMP shall be implemented in full in the carrying out of the development.

Reason: In the interests of residential amenities, public health and safety.

16. Detailed measures in relation to the protection of bats shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. These measures shall be implemented as part of the development.

Reason: In the interest of wildlife protection.

17. Public lighting shall be provided in accordance with a scheme, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Such lighting shall be provided prior to the making available for occupation of any unit.

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

18. Site development and building works shall be carried out only between the hours of 0700 and 1900 Mondays to Fridays inclusive, between 0800 and 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.

19. (a) Noise during site clearance and construction shall not exceed 65 dB(A) and the peak noise shall not exceed 75 dB(A) when measured at any point off site.
- (b) Noise from the premises shall not exceed the background levels by more than 5 dB(A) during the period 0800-2200 and by more than 3 dB(A) at any other time when measured at any external position at a noise-sensitive premises.
- (c) Prior to commencement of development, the developer shall submit for the written agreement of the planning authority, the acoustic louvres in the openings of the plant rooms.

Reason: In the interest of residential amenity.

20. Prior to the commencement of any house 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), pursuant to Section 47 of the Planning and Development Act 2000, as amended, that restricts all houses 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.

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.

21. 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 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 for the area.

22. 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 of roads, footpaths, watermains, drains, 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 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 of the development.

23. A special contribution of €100,000 shall be paid by the developer for the construction of a controlled raised pedestrian crossing and associated traffic calming measures to safely connect the proposed development to the existing footpath south of the L2779.

Reason: In the interest of public safety.

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.



Stephen Brophy

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



Dated this 23rd day of May 2023