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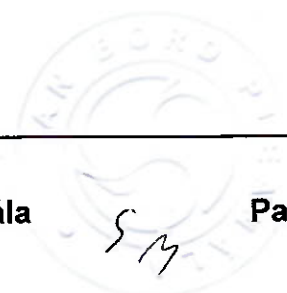
**Planning and Development Acts 2000 to 2022**

**Planning Authority: Cork City Council**

**Planning Register Reference Number: 21/40229**

**Appeal** by Breda McGrath Linehan and Diarmuid Linehan of 19 Clarkeswood, Mount Oval, Rochestown, Cork, by Mount Oval Concerned Residents care of Tim Murphy of 18 Clarkeswood, Mount Oval, Rochestown, Cork and by O'Flynn Construction Company Unlimited care of McCutcheon Haley of 6 Joyce House, Barrack Street, Ballincollig, County Cork against the decision made on the 7<sup>th</sup> day of June, 2022 by Cork City Council to grant subject to conditions a permission to O'Flynn Construction Company Unlimited in accordance with plans and particulars lodged with the said Council:

**Proposed Development:** Construction of 45 number one, two and three-bedroom apartments in a single building of three to four storeys in height over a semi-basement car park, together with all associated site development and infrastructural works at Clarkeswood, Mount Oval Village, Mount Oval, Rochestown, Cork. The proposed development was revised by further public notices received by the planning authority on the 9<sup>th</sup> day of May, 2022.



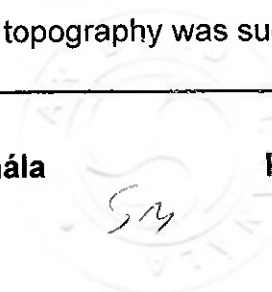
## **Decision**

**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 zoning objective of the site in the Cork City Development Plan 2022-2028, to the design and scale of the proposed development, to the infill nature of the site, and to the pattern of development in the vicinity, it is considered that the proposed development, subject to the removal of the first floor as required by the local authority, and subject to compliance with the conditions set out below, would not seriously injure the residential or visual amenities of the area or of property in the vicinity, would represent an appropriate residential density, would be acceptable in terms of traffic safety and convenience, would not endanger public health, and would comply with the relevant provisions of the Cork City Development Plan 2022-2028, the National Planning Framework, and the Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities (2024). The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

In deciding not to accept the Inspector's recommendation to omit planning authority condition number 2 which required the removal of the first floor from the permitted scheme, the Board did not agree that the proposed development, in its proposed form of four-storey over basement, could be successfully absorbed into the environment, and instead on consideration of the illustrations and documentation on file, agreed with the assessment of the local authority, and considered that the steep topography was such that the



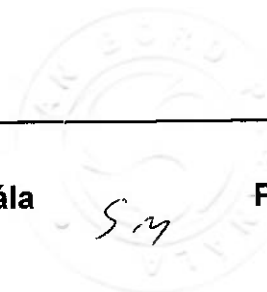
height of the proposal, without the reduction required by the planning authority, would have an overbearing impact on the dwellings to the north. The Board considered that the omission of these apartments has a consequent impact on the requirements for parking provision within the scheme, and this enables the provision of an area of communal open space as proposed by the planning authority.

## 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 submitted on the 13<sup>th</sup> day of April 2022, 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) Permission is granted for 31 apartments only. The first floor shall be removed from the permitted scheme and the height of the building shall be reduced accordingly. Prior to commencement of development, revised floor plans and elevation drawings which show this omitted floor and the subsequent reduction in the height of the proposed scheme. shall be submitted for the written agreement of the planning authority.



- (b) The 10 surface parking spaces at ground level to the east of the permitted building shall be omitted from the permitted scheme. The resultant space and adjacent landscaping shall be shown as an enclosed, communal amenity space to serve the permitted scheme. Prior to commencement of development, boundary proposals for this space which show the enclosure of this area and which ensure that this space is solely accessible to the occupants of the apartment scheme, shall be submitted for the agreement of the planning authority.

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

3. Drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.
- (a) Prior to commencement of development, the developer shall enter into a new stormwater connection agreement with the planning authority. As part of the agreement process, all details of the proposed stormwater system within the development shall be agreed in writing.
- (b) Attenuation measures shall be installed on the site to restrict the outflow to Greenfield runoff rates. Details in this regard shall be agreed in writing with the planning authority prior to commencement of development.
- (c) An assessment shall be carried out of the potential for disposing of surface water by means of a sustainable drainage system and the results of the assessment provided to Cork City Council Drainage Division. Where a sustainable drainage scheme is to be provided

the submitted details shall provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters, including a timetable for its implementation; and provision of a management and maintenance plan for the lifetime of the development, which shall include the arrangements for adoption by any public authority or statutory undertaker on any other arrangements to secure the operation of the scheme throughout its lifetime.

- (d) Prior to the occupation of the buildings hereby approved, the surface water drainage works shall be carried out, and the sustainable drainage system shall thereafter be managed and maintained in accordance with the agreed management and maintenance plan.

**Reason:** In the interests of orderly development, public health and sustainable development

4. Prior to commencement of development, the developer shall enter into water and/or wastewater connection agreement(s) with Uisce Eireann.

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

5. (a) The developer shall engage a qualified person to prepare a site-specific acoustic report. The report shall address the proximity of the proposed development to the proposed M28 Project and shall recommend appropriate noise mitigation measures to achieve the TII Design Goal of 70Db., Lden, 57 DdLnight (Free field Residential facade Criterion) at all residential components in the development.

The report shall consider:

- (i) appropriate noise criteria for gardens, amenity spaces and indoor noise levels in bedrooms,
  - (ii) noise mitigation measures included in the proposed M28 design, and
  - (iii) the design, layout, massing, material selection and detailing of insulation and ventilation requirements for the development.
- (b) The developer shall be liable for the cost of providing and installing appropriate mitigation measures between the proposed M28 project and the proposed development, in excess of the noise barriers proposed in the M28 Environmental Impact Statement noise barrier drawing NB0001RevF01.

The extent and cost of such mitigation measures shall be agreed in writing with the planning authority. The developer shall submit a bond for the cost of the proposed mitigation measures prior to commencement of development, and such measures shall be implemented prior to the occupation of the units.

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

6. No construction shall take place on the lands proposed to be acquired for the M28 project, and there shall be no deposition of material from any other works within these lands. Therefore, there shall be no change in the level of the existing ground that is subject to the motorway order for the proposed M28 project.

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

7. Any runoff from the proposed development shall not be permitted to enter the proposed drainage of the M28 project.

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

8. Prior to commencement of development, the developer shall seek written agreement from the planning authority for the provision of communal open space in accordance with the requirements of section 11.112 of the Cork City Development Plan 2022-2028.

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

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

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

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

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

11. Proposals for a street, building and public space naming scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all street signs and dwelling numbers, 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 names.

**Reason:** In the interest of urban legibility.

12. (a) The site shall be landscaped and paving 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) The palette of materials to be used, including street furniture, paving etc to be used in public spaces shall be agreed in writing with the planning authority prior to commencement of development on the site.

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

13. All trees within and on the boundaries of the site shall be retained and maintained, with the exception of the following:
- (a) Specific trees, the removal of which is authorised in writing by the planning authority to facilitate the development.



- (b) Trees which are agreed in writing with the planning authority to be dead, dying or dangerous through disease or storm damage, following submission of a qualified tree surgeon's report, and which shall be replaced with agreed specimens.

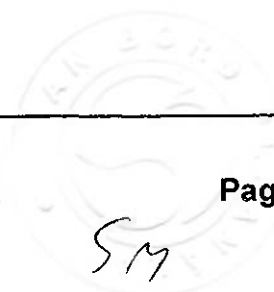
Retained trees shall be protected from damage during construction works. Within a period of six months following the substantial completion of the proposed development, any planting which is damaged or dies shall be replaced with others of similar size and species, together with replacement planting required under paragraph (b) of this condition.

No trench, embankment or pipe run shall be located within three metres of any trees which are to be retained on the site.

**Reason:** To prevent damage to the root systems of trees and in the interest of visual amenity.

14. All planting/landscaping required to comply with the specification of the landscaping scheme submitted to the planning authority shall be maintained, and if any tree or plant dies or is otherwise lost within a period of five years, it shall be replaced by a plant of the same species, variety and size within the planting season following such loss.

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



15. 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 commencement of development.

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

16. Prior to the opening/occupation of the development, a Mobility Management Strategy shall be submitted to and agreed in writing with the planning authority. This shall include the provision of surface level sheltered bicycle stands, 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.

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

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

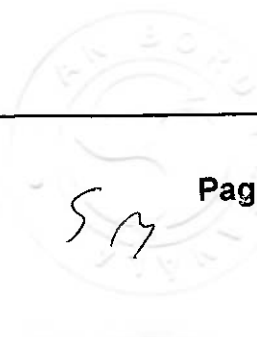
**Reason:** To provide for and/or future proof the development such as would facilitate the use of Electric Vehicles.

18. (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.

19. The construction of the development shall be managed in accordance with a Construction and Environmental 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 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.
- (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 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 mitigation measures for noise, dust and vibration, and the location and frequency of monitoring of such levels.
- (j) 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.
- (k) Means to ensure that surface water run-off is controlled such that no silt or other pollutants/contaminants enter local surface water sewers or drains.

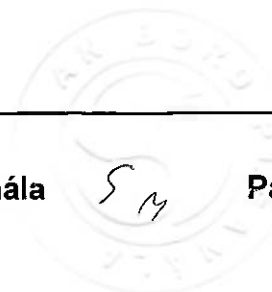


- (l) A record of daily checks that the works are being undertaken in accordance with the Construction Management Plan shall be kept for inspection by the planning authority.
  
- (m) Measures to fully remediate the site in accordance with a Construction Stage Invasive Plant Species Management plan, in advance of the commencement of construction activities.

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

20. Prior to the commencement of development, the developer or any agent acting on its behalf, shall prepare 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) including demonstration of proposals to adhere to best practice and protocols. The RWMP shall include specific proposals as to how the RWMP will be measured and monitored for effectiveness; these details shall be placed on the file and retained as part of the public record. The RWMP must be submitted to the planning authority for written agreement prior to the commencement of development. All records (including for waste and all resources) pursuant to the agreed RWMP shall be made available for inspection at the site office at all times.

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



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 of 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, 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 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. 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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**Stephen Brophy**

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

Dated this 1<sup>st</sup> day of February 2024.