



An
Bord
Pleanála

Board Order ABP-314665-22

Local Government (No. 2) Act, 1960

Housing Act, 1966

Planning and Development Acts, 2000 to 2022

Applicant: Cork City Council

Application received by An Bord Pleanála on the 21st day of September, 2022 from Cork City Council pursuant to section 76 of, and the Third Schedule to, the Housing Act, 1966 as extended by section 10 of the Local Government (No.2) Act, 1960 (as substituted by section 86 of the Housing Act, 1966) and the Planning and Development Acts, 2000 to 2022, for confirmation of a Compulsory Purchase Order authorising compulsory acquisition of lands and entitled Cork City Council - Lisheens, Ballincollig, Acquisition Order No.4 of 2022.

DECISION

CONFIRM the above Compulsory Purchase Order subject to the modification set out in the schedule hereto for the reasons and considerations set out below.

REASONS AND CONSIDERATIONS

Having considered the written objections made to the compulsory purchase order, the report and recommendation of the Inspector who conducted the oral hearing into the objections, and having regard to the following:

- (a) the constitutional and convention protection afforded to property rights,
- (b) the purpose for which the lands are to be acquired as set out in the Compulsory Purchase Order,
- (c) the deficiencies in the existing educational facilities in Ballincollig,
- (d) the community need, public interest served and overall benefits to be achieved from the proposed school campus,
- (e) the provisions of the National Planning Framework and the Section 28 guidelines on 'The Provision of Schools and the Planning System (2008)',
- (f) the Climate Act 2021 and Climate Action Plan 2023,
- (g) the policies and objectives of the Cork City Council Development Plan 2022-2028, which are not materially contravened,
- (h) the submissions and observations made at the oral hearing, and,

in reaching this conclusion, it is considered that, the acquisition permanently of the lands in question, as set out in the Compulsory Purchase Order and on the deposited map, are necessary for the purposes stated, which is a legitimate objective being pursued in the public interest, and that the Compulsory Purchase Order and its effects on the property rights of affected landowners are proportionate to that objective and justified by the exigencies of the common good and the objections cannot be sustained having regard to the said necessity.



In coming to this conclusion, the Board agreed with and adopts the analysis contained in the report of the person who conducted the oral hearing into the objections. The Board was satisfied that the process and procedures undertaken by the local authority have been fair and reasonable, that the local authority has demonstrated the need for the lands and that all the lands being acquired are both necessary and suitable to facilitate the provision of educational facilities in Ballincollig.

Having regard to the constitutional and convention protection afforded to property rights, the Board consider that the acquisition of land as set out in the Compulsory Purchase Order pursues, and is rationally connected to, a legitimate objective in the public interest, namely the provision of educational facilities.

The Board was also satisfied that the acquiring authority has demonstrated that the means chosen to achieve that objective impair the property rights of affected landowners as little as possible; in this respect, the Board considered alternative means of achieving the objective referred to in submissions to the Board, and was satisfied that the acquiring authority has established that none of the alternatives are such as to render the means chosen and the Compulsory Purchase Order made by the acquiring authority unreasonable or disproportionate.

The effects of the Compulsory Purchase Order on the rights of affected landowners are proportionate to the objective being pursued. The Board was further satisfied that the proposed acquisition of these lands would be consistent with the policies and objectives of the Cork City Development Plan 2022-2028. Accordingly, the Board was satisfied that the confirmation of the Compulsory Purchase Order is clearly justified by the exigencies of the common good.

SCHEDULE

Plot number 1 in the Schedule to the Compulsory Purchase Order to be amended to include Michael and Gerard Hallisey as a lessee or reputed lessee.

Reason: To take into account updated information.




Stephen Brophy

Member of An Bord Pleanála

duly authorised to authenticate
the seal of the Board.

Dated this 8th day of January, 2024