

An
Bord
Pleanála

Board Order ABP-315701-23

Planning and Development Acts 2000 to 2022

Planning Authority: Cork City Council

Planning Register Reference Number: 21/40745

Appeal by Nollaig Ó Mathúna of 34 Glen Heights Road, Ballyvolane, Cork against the decision made on the 10th day of January, 2023 by Cork City Council to grant permission subject to conditions to Colm Kelleher care of CEA Architects of 15 Mill Road, Midleton, County Cork in accordance with plans and particulars lodged with the said Council.

Proposed Development: Permission is sought for the demolition of 1411.9 square metres of existing sheds. Permission is also sought for the construction of 20 number semi-detached two-storey dwelling houses (to include eight number four bed dwellings and 12 number three bed dwellings) and all associated site works at Ballinvriskig, Upper Glanmire, Cork City as revised by further public notices received by the planning authority on the 5th day of December, 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 nature, scale and design of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development would be consistent with the policies and objectives of the Cork City Development Plan 2022-2028, including having regard to the 'ZO.01 Sustainable Residential Neighbourhoods' land use zoning objective for the area, would not impact unduly on residential or visual amenities in the area, would not give rise to unacceptable traffic congestion or traffic hazard in the area, and would not be premature in relation to provision of wastewater infrastructure. 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 by the planning authority on the 16th day of November 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. The landscaping scheme shown on drawing numbers 21281-CEA-FI-A-L1003-A and 21281-CEA-PL-A-L0005-A, as submitted to the planning authority on the 16th day of November 2022, shall be carried out within the first planting season following substantial completion of external construction works.

This scheme shall include the following:

- (a) a one metre high stone boundary wall shall be erected along the roadside boundary facing the R616 and at the entrance to the development. This shall be erected inside the public footpath and follow the line of the adjoining roadside boundary walls. The stone used shall be natural, not manmade or reconstituted;
- (b) where the public amenity areas bound the perimeter of the site, a treeline with hedging shall be planted along the perimeter of the site. For the purposes of clarity, no permission is granted for the erection of a wall where a public amenity area bounds the site, save bounding the roadside or the curtilage of a dwelling.

Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

Reason: In the interest of residential and visual amenity.

3. Details of the materials, colours and textures of all the external finishes to the proposed dwellings shall be submitted to and agreed in writing with the planning authority prior to commencement of development. Roof colour shall be blue-black, black, dark brown or dark grey only. All screen walls shall be capped, and rendered on both sides in a finish that matches the external finish of the dwellings.

Reason: In the interest of visual amenity.

4. The following shall be complied with:

- (a) Prior to the commencement of any house in the development, 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, 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.
- (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 of the residential units 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 developer 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.

5. 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.

6. All of the proposed on-curtilage car parking spaces shall be provided with electrical connection points, to allow for functional electric vehicle charging.

Reason: In the interest of sustainable transport.

7. 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 public safety and residential amenity.

8. Proposals for an estate/street name, house numbering scheme, and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development. Thereafter, all estate and street signs, and house numbers, shall be provided in accordance with the agreed scheme. The proposed name(s) 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(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.

9. During the construction and demolition phases, the development shall comply with British Standard 5228 "Noise Control on Construction and open sites Part 1. Code of practice for basic information and procedures for noise control".

Reason: In order to ensure a satisfactory standard of development, in the interest of residential amenity.

10. 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 hours of working, noise management measures, dust management, wheel washing, odour, litter, surface water run-off parking, and spillages and off-site disposal of construction/demolition waste. No dust, mud or debris from the site shall be carried onto or deposited on the public road / footpath. Public roads and footpaths in the vicinity of the site shall be maintained in a tidy condition by the developer during the construction phase.

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

11. The construction of the development shall be managed in accordance with a Construction Traffic 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 dedicated haulage routes, a protocol to be followed by HGV drivers, and allowable operational times for HGV's on the city's road network which shall be agreed with Cork City Council in consultation with An Garda Síochána before the commencement of development on site.

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

12. The management and maintenance of the proposed 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 taken in charge. Detailed proposals in this regard shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Where it is intended that the development is to be taken in charge, it shall be designed and constructed in accordance with the planning authority requirements. In this regard, the development, including all roads, footpaths, and public lighting, shall be carried out in accordance with the standards and requirements of the planning authority for taking in charge, and the development shall be maintained by the developer until taken in charge by the authority and shall not be operated or maintained by private management company.

Reason: To ensure the satisfactory completion and maintenance of this development, and in order to comply with national policy in relation to the maintenance and management of residential estates.

13. Prior to commencement of development, the developer shall enter into water and/or wastewater connection agreements with Uisce Éireann.

Reason: In the interest of public health.

14. Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services. The following shall also be complied with:

- (a) All foul sewage and soiled water shall be discharged to the foul sewer;
- (b) Only clean, uncontaminated storm water shall be discharged to the surface water drainage system;
- (c) All surface water generated within the site boundaries shall be collected and attenuated within the curtilage of the site, unless otherwise agreed in writing with the planning authority;
- (d) Existing roadside drainage arrangements, including inlets and/or drains taking surface water from the public road, shall be preserved and maintained to the satisfaction of the planning authority;
- (e) Prior to the commencement of development, the developer shall submit details of the construction of the proposed attenuation system to the planning authority for written agreement;
- (f) As part of the new storm water connection process, the developer shall be required to submit for the written agreement of the planning authority a survey of the storm network in Ros Ard from the proposed connection point to its outfall and assess its condition and capacity to accommodate the proposed connection;

- (g) The developer shall submit a new storm water connection application for the new section of storm sewer in the public road and the proposed connection point into the Ros Ard estate, to the planning authority and obtain written approval from the planning authority for same, prior to the making of this connection;

Reason: In the interests of public health, roadside drainage, and traffic safety, and to prevent pollution, flooding of the public road, and overloading of the sewer.

15. Public lighting within the development 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 house.

Reason: In the interests of amenity and public safety.

16. The following shall be complied with:

- (a) The measures recommended within the Stage 1 and 2 Road Safety Audit, submitted as part of the response to Further Information received by the planning authority on the 16th day of November 2022, shall be undertaken by the developer at the developer's expense unless the planning authority approves a departure in writing. In this regard, the visibility splays at the entrance to the development shall be maintained unobstructed, and no vegetation or structure within the visibility splays shall exceed one metre in height.
- (b) A Stage 3 Road Safety Audit report shall be submitted for the written agreement of the planning authority prior to the occupation of the development. A Stage 4 Road Safety Audit report shall be submitted for the written agreement of the planning authority within three months of the occupation of the development. Any deficiencies identified by the Stage 3 and 4 Road Safety Audits shall be resolved in full by the developer at the developer's expense and to the written satisfaction of the planning authority unless the planning authority approves a departure in writing.

Reason: In the interest of traffic safety.

17. The following shall be complied with:

- (a) All road modifications and improvements, including the proposed new zebra crossing on the R616, shall be carried out by the developer at the developer's expense, to the detail agreed in writing with the planning authority.
- (b) The development shall not conflict with the Kilcully and Upper Glanmire Pedestrian Safety Scheme. Any works not hereby permitted shall not take place in the lands required for the Scheme, and there shall be no deposition of material arising from the development hereby permitted on lands within the Scheme area.


Reason: In the interests of clarity, road safety and the proper planning and sustainable development of the area.

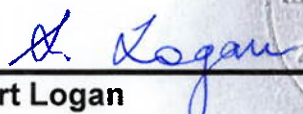
18. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion and maintenance until taken in charge by the local authority of roads, footpaths, watermains, 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.

19. 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.





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

Dated this 6th day of September 2024