

Planning and Development Acts 2000 to 2022

Planning Authority: Offaly County Council

Planning Register Reference Number: 22/212

Appeal by Christine Cawley of 36 Oakfield, Tullamore, County Offaly against the decision made on the 23rd day of May, 2023 by Offaly County Council to grant subject to conditions a permission to James Spollen Limited care of MCOH Architects of Old Church, Church Street, Portlaoise, County Laois.

Proposed Development: Construction of 95 number houses comprising of 30 number two-storey three-bedroom terrace (house type C), 17 number two-storey three-bedroom terrace (house type c1), nine number two-storey two-bedroom terrace (house type c2), eight number two-storey three-bedroom terrace (house type d), 11 number two-storey three-bedroom semi-detached/terrace (house type e), three number two-storey two-bedroom terrace (house type f), six number two-storey two-bedroom semi-detached/detached (house type g), one number two-storey three-bedroom semi-detached (house type h), four number two-storey three-bedroom detached (house type h1), three number two-storey three-bedroom semi-detached (house type h2), three number single storey one-bedroom terrace (house type k) and all associated siteworks, all on a site accessed via the existing Hophill Avenue and The Cedars Residential Estates, Church Road,

Tullamore, County Offaly. The proposed development was revised by further public notices received by the planning authority on the 27th day of April 2023.

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

In deciding to grant the Board had regard to the drawing titled 'Site Layout with Zoning' (Drawing number 18-28/PP-0121) submitted by the applicant, in response to a request under Section 132 of the Planning and Development Act 2000, as amended. The Board did not deem it necessary to circulate the information received to other parties, as the information provided did not alter the scheme, serving only to clarify the location of the development relative to Zonings in the Offaly County Development Plan 2021-2027.

This drawing clarified the position of the houses relative to the open space zoning. The Board noted that houses number 1-4 are in an area where the zoning objective is 'New Residential', the Board concluded that the limited infringement into the open space zoning is not material. The Board considered the zoning principles as set out in Section 12.2 of the development plan which recognises the need for some flexibility, and the planning history of the site, and concurred with the Planning Authorities decision that the scheme as proposed accorded with the development plan.

In deciding not to accept the Inspector's recommendation to refuse permission, the Board noted that, other than the extent of infringement by the

houses on open space zoning, which the Inspector considered, other issues raised in the appeal to have been satisfactorily addressed in the application.

Screening for Appropriate Assessment

Having considered the information on the file, the Board concluded that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on any European site, and a stage 2 Appropriate Assessment is not therefore required.

Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by further plans and particulars submitted received by the planning authority on the 20th day of March 2023, 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. The total number of residential units permitted in this development is 95 number.

Reason: In the interest of clarity.

2. The development shall be carried out in accordance with the phasing submitted with the application, unless otherwise agreed in writing with the planning authority. No dwelling shall be erected on the second or subsequent phase until the written agreement of the planning authority has been given. No dwelling shall be occupied anywhere in the permitted scheme until all necessary services have been provided for it to the satisfaction of the planning authority.

Reason: To ensure the timely provision of amenities and infrastructure for future residents and to protect residential amenity.

3. Prior to commencement of development, the developer shall submit to, and agree in writing with, the planning authority elevations and floor plans of house numbers 89 and 82.

Reason: In the interest of clarity.

4. 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.

5. The permitted development shall be landscaped, and boundary treatments provided in accordance with a detailed comprehensive scheme of landscaping and boundary treatments, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. All planting shall be adequately protected from damage until established. 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.

The boundary wall of the rear garden of house number 18 shall be set back in line with the side access wall increasing the area of public open space. Details in this regard shall be agreed in writing with the planning authority prior to commencement of development.

Reason: In the interests of residential and visual amenity.

6. The areas of public open space shown on the lodged plans shall be reserved for such use and shall be soiled, seeded, and landscaped in accordance with the landscape scheme agreed with the planning authority. This work shall be completed before any of the dwellings are made available for occupation and shall be maintained as public open space by the developer until taken in charge by the local authority or management company.

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

7. (a) The areas not intended to be taken in charge by the local authority, shall be maintained by a management company.
- (b) Details of the management company, 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 this development in the interest of residential amenity.

8. Public lighting shall be provided in accordance with a scheme, which shall include lighting for the public open spaces, communal spaces and parking/servicing areas, 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 into account the existing and permitted public lighting in the surrounding area. Such lighting shall be provided prior to the making available for occupation of any unit.

Reason: In the interests of amenity and public safety.

9. 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 commencement of development. Thereafter, all estate and street signs, and house 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(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 and to ensure the use of locally appropriate place names for new residential areas.

10. A plan containing details for the management of waste 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 house and non-residential 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.

Reason: In the interest of residential amenity, and to ensure the provision of adequate refuse storage.

11. 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 Environmental Protection Agency'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.

12. The construction of the development shall be managed in accordance with a final project 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 the construction practice for the development, including:
- (a) location of the site and materials compound(s), including areas identified for the storage of construction refuse;
 - (b) location and details of areas for construction site offices, staff facilities, site security fencing and hoardings;
 - (c) details of on-site car parking facilities for site workers during the course of construction;
 - (d) 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.

- (e) measures to obviate queuing of construction traffic on the adjoining road network;
- (f) details of construction phase mobility strategy, incorporating onsite mobility provisions;
- (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 (1Hz to 80Hz) 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 watercourses;
- (n) a record of daily checks that the works are being undertaken in accordance with the final project Construction and Environmental Management Plan shall be kept for inspection by the planning authority; and
- (o) invasive species management plan.

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

13. Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Friday and 0700 to 1400 hours on Saturday, 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.

14. (a) Lines of sight at the entrance and at junctions throughout the site shall be provided and maintained strictly in accordance with the requirements of Table 4.2: Stopping Sight Distances (SSD) Standards, Design Manual for Urban Roads and Streets, 2019 (version 1.1). Nothing shall be planted or sown in front of these sightlines without prior written consent of the planning authority.
- (b) Prior to commencement of development, the developer shall submit to, for the written agreement and consent of, the planning authority a revised layout of the proposed entrance to the development which shall include a proposal to provide a pedestrian crossing at the proposed entrance to accommodate a pedestrian link to the existing footpath network in the adjoining Oakfield/Cedars estates.
- (c) Prior to commencement of development, the developer shall submit to, for the written agreement and consent of, the planning authority, revised particulars as follows:
- (i) The three proposed parking spaces situated between houses 95/94 and 81 shall be removed and the road carriageway shall be fully built out to the boundary and a pedestrian/cycle link shall be provided from the proposed estate to the existing Ashley Court estate footpath network. The three car parking spaces shall be relocated outside dwellinghouse number 81.

- (ii) Bollards and retention sockets shall be installed at the boundary to prevent vehicular access to the Ashley Court estate.
- (d) Prior to commencement, the developer shall submit to, for the written agreement and consent of, the planning authority a revised layout of the proposed footpath link of the north-east corner of the site to L-2026 (Bachelors Walk). This footpath link shall be redesigned to accommodate both pedestrians and cyclists.

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

15. The internal road network serving the proposed development, including turning bays, junctions, parking areas, footpaths and kerbs shall be in accordance with the detailed construction standards of the planning authority for such works and design standards outlined in Design Manual for Urban Roads and Streets (DMURS), 2019.

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

16. A minimum of 10% of all car parking spaces should be provided with functioning electric-vehicle charging stations/points, and ducting shall be provided for all remaining car parking spaces, facilitating the installation of electric-vehicle charging points or stations at a later date. Where proposals relating to the installation of electric-vehicle ducting and charging stations or points has not been submitted with the application, in accordance with the above noted requirements, 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.

17. 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 visual and residential amenity.

18. Prior to commencement, the developer shall submit to the to, for the written agreement and consent of, the planning authority, a wayleave agreement for the existing sewer line running to the east of proposed house numbers 1 and 43. In the event that the existing sewer is required to be relocated, an amended wayleave agreement shall be submitted.

Reason: In the interest of public health.

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

Reason: In the interests of public health and surface water management.

20. Prior to commencement of development, the developer shall enter into water and wastewater connection agreement(s) with Uisce Éireann.

Reason: In the interest of public health.

21. 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.

22. Prior to the commencement of any house or duplex unit in the development as permitted, the developer 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 and duplex units permitted, to first occupation by individual purchasers, that is, 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.

23. 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, (including access roads that have yet to be taken in charge) 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 (including access roads that have yet to be taken in charge). 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.

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.

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

Dated this *4th* day of *March* 2024.