

An  
Bord  
Pleanála

## Board Order ABP-318716-23

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**Planning and Development Acts 2000 to 2022**

**Planning Authority: Cork County Council**

**Planning Register Reference Number: 22/6511**

**Appeal** by Eoin O'Mahony care of James Bourke Architects of Attiquin, Castlemartyr, County Cork against the decision made on the 23<sup>rd</sup> day of November, 2023 by Cork County Council to grant permission, subject to conditions, for the proposed development.

**Proposed Development:** Planning permission for the construction of a residential development of seven number dwelling houses comprising of five number two storey houses and two number single storey houses. The development also includes drainage works, landscaping and all ancillary site development works at Dromdihy, Killeagh, County Cork as revised by further public notices received by the planning authority on the 27<sup>th</sup> day of October, 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

Having regard to the provisions of the Cork County Development Plan 2022-2028 and the location and established pattern of development in the surrounding area, it is considered that, subject to compliance with the conditions set out below, the proposed development, within the established settlement boundary, would be acceptable in terms of pedestrian and traffic safety and would otherwise be an appropriate form of development, would not adversely impact on the residential amenity of neighbouring properties and would not unduly impact on the protected structure (Dromdihy House). 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 refuse permission, the Board considered the photomontages showing the view from various locations including Views 3 and 4 from the L3806 road. The Board considered that while the proposed development would be visible from the road, the visual impact is minor. Furthermore, given the distance of the proposed development from Dromdihy House and the existing development in the vicinity, the Board determined that the proposed development would not adversely impact on the protected structure. The Board noted, but did not share, the Inspector's concerns in relation to the widening of the access road and having considered the modest intervention of the footpath and the capability of landscaping to be conditioned, the Board considered that a refusal on this issue was not warranted. The Board therefore decided to permit house numbers 4 and 5 as part of the overall development and uphold the first party appeal in that regard.

In relation to the first party appeal against the omission of house number 6 in condition number 1 of the planning authority's decision, the Board agreed with the planning authority and the Inspector that given the level difference and proximity to the shared boundary with the adjoining properties in Lawrence Kelly Terrace, house number 6 would be overbearing and have an adverse impact on the residential amenities of adjoining properties and should be omitted.

In relation to the first party appeal against condition number 14 that requires all properties to be individually connected to the foul sewer, the Board agreed with the planning authority and Inspector that each property should have its own connection to the public foul sewer to ensure proper management and maintenance of same and did not uphold the appeal.

## 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 22<sup>nd</sup> day of September 2023 and to An Bord Pleanala on the 5<sup>th</sup> day of December, 2024 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. Proposed house number 6 shall be omitted and its vacated area incorporated into the curtilage of proposed house number 7, or alternative arrangement as may be agreed in writing with the planning authority. A drawing showing the revised layout shall be submitted to and agreed in writing with the planning authority prior to the commencement of development.

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

3. The foul sewer connections from all properties are to be individually connected to the proposed public foul sewer.

**Reason:** In the interest of public health and orderly development.

4. The internal road network serving the proposed development including carriageway width, turning bays, junctions, parking areas, footpaths, and kerbs shall comply 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).

Footpaths shall be dished at road junctions in accordance with the requirements of the planning authority. Details of all locations and materials to be used shall be submitted to, and agreed in writing, with the planning authority prior to the commencement of development.

**Reason:** In the interest of amenity and of traffic and pedestrian safety.

5. Prior to the commencement of development details of the construction of the proposed access road and footpaths shall be submitted to and agreed in writing with the planning authority.

**Reason:** To ensure satisfactory standards of roads.

6.
  - (a) A scheme indicating landscaping and boundary treatments shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.
  - (b) 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, or until the development is taken in charge by the local authority, whichever is the sooner, 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.

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 visual and residential amenity.

8. The attenuation and 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 attenuation and disposal of surface water from the site for the written agreement of the planning authority.

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

9. Prior to the commencement of development, the developer shall enter into Connection Agreements with Uisce Éireann to provide for service connections to the public water supply and wastewater collection network. All development shall be carried out in compliance with Uisce Éireann's Standard Details and Codes of Practice.

**Reason:** In the interest of public health and to ensure adequate water/wastewater facilities.

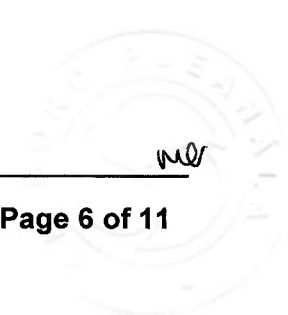
10. A Construction and Environmental Management Plan (CEMP) shall be submitted to and agreed in writing with the planning authority prior to the commencement of development. The CEMP shall include, but not be limited to, construction phase controls for dust, noise and vibration, waste management, protection of soils, groundwaters, and surface waters, traffic management, construction lighting, site housekeeping, emergency response planning, site environmental policy, and project roles and responsibilities.

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

11. The developer shall engage a suitably qualified and licensed archaeologist to carry out pre-development archaeological testing in areas of proposed ground disturbance and to submit an archaeological impact assessment report for the written agreement of the planning authority, following consultation with the National Monuments Service, in advance of any site preparation works or groundworks, including site investigation works/topsoil stripping/site clearance/dredging/underwater works and/or construction works. The report shall include an archaeological impact statement and mitigation strategy. Where archaeological material is shown to be present, avoidance, preservation in-situ, preservation by record and/or monitoring may be required. Any further archaeological mitigation requirements specified by the planning authority, following consultation with the National Monuments Service, shall be complied with by the developer. No site preparation and/or construction works shall be carried out on site until the archaeologist's report has been submitted to and approval to proceed is agreed in writing with the planning authority. The planning authority and the National Monuments Service shall be furnished with a final archaeological report describing the results of any subsequent archaeological investigative works and/or monitoring following the completion of all archaeological work on site and the completion of any necessary post-excavation work. All resulting and associated archaeological costs shall be borne by the developer.

**Reason:** To ensure the continued preservation either in situ or by record of places, caves, sites, features or other objects of archaeological interest.

12. 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 and to ensure an appropriate high standard of development.

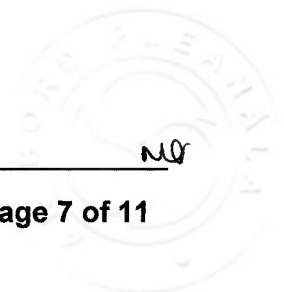
13. Public lighting shall be provided in accordance with a scheme which shall be submitted to and agreed in writing with the planning authority prior to the commencement of development. Such lighting shall be provided prior to the making available for occupation of any residential unit.

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

14. Proposals for an estate/street name and 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 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 and to ensure the use of locally appropriate placenames for new residential areas.

15. The developer shall retain wayleaves to the satisfaction of the planning authority over areas where services traverse private property. In the event of the planning authority deciding at its discretion to take the roads and services in charge the developer shall provide rights of way and wayleaves over these areas to the planning authority. A minimum of six metres wayleave width shall be provided on all water service pipelines and surface and foul sewers through private property. No development shall be undertaken within the wayleaves unless agreed with the planning authority. Works shall not commence until any necessary wayleaves have been established.



**Reason:** To provide adequate access to services.

16. The development hereby permitted shall be carried out and completed at least to the construction standards as set out in the planning authority's Taking In Charge Standards. In the absence of specific local standards, the standards as set out in the 'Recommendations for Site Development Works for Housing Areas' issued by the Department of the Environment and Local Government in November 1998. Following completion, the development shall be maintained by the developer, in compliance with these standards, until taken in charge by the planning authority.

**Reason:** To ensure that the development is carried out and completed to an acceptable standard of construction.

17. (a) Prior to the commencement of 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 or duplex unit), pursuant to Section 47 of the Planning and Development Act 2000, that restricts all relevant residential units 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 applicant 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.

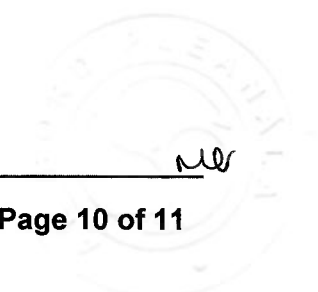
18. Prior to commencement of development, the applicant or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the transfer of a percentage of the land, to be agreed with the planning authority, in accordance with the requirements of section 94(4) and section 96(2) and 96(3)(a), (Part V) of the Planning and Development Act 2000, as amended, and/or the provision of housing on lands in accordance with the requirements of section 94(4) and section 96(2) and 96(3) (b), (Part V) of the Planning and Development Act 2000, as amended, unless an exemption certificate has been granted under section 97 of the Act, as amended. Where such an agreement cannot be reached between the parties, the matter in dispute (other than a matter to which section 96(7) applies) shall 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.

19. 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.

20. 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 Gurrie*

**Mary Gurrie**

**Member of An Bord Pleanála**

**duly authorised to authenticate**

**the seal of the Board.**

Dated this *11* day of *March* 2025