

An
Bord
Pleanála

Board Order ABP-320996-24

Planning and Development Acts 2000 to 2022

Planning Authority: Cork City Council

Planning Register Reference Number: 24/42789

Appeal by O'Leary O'Sullivan Developers Limited care of Coakley O'Neill Town Planners of NSC Campus, Mahon, Cork City against the decision made on the 10th day of September, 2024 by Cork City Council to refuse permission for the proposed development.

Proposed Development: Construction of a large scale residential development comprising: (i) construction of 166 number residential dwellings comprising 26 number one-bed apartments and 42 number two-bed apartments in 12 number two-storey blocks and two number three-storey duplex blocks, 20 number two-bed townhouses, 18 number three-bed townhouses, 42 number three-bed semi-detached houses, and 18 number four-bed semi-detached houses, all two-storeys in height; (ii) construction of an extension to previously permitted crèche TP21/40038 (PL.28.311730) to allow for an increase of its capacity from 40 number child spaces to 76 number spaces; (iii) a new vehicular access from the Ballyhooly Road and a new vehicular access from the L2980 road; (iv) vehicular/pedestrian connections to the south through permitted development TP21/40038 (PL.28.311730) which leads through Coppenger Fields development; (v) car and bicycle parking, bin storage facilities and public lighting throughout scheme; (vi) landscaping, neighbourhood and

local play areas and an ecology corridor to stream along Ballyhooley Road; (vii) drainage and surface water management works including attenuation basins and swales and (viii) all associated boundary, site and development works at this site at Dublin Pike and Ballyhooley Road, Ballincroilig, Cork City.

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.

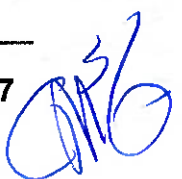
Reasons and Considerations

In coming to its decision, the Board had regard to the following:

- (a) the location of the site in an area where residential and childcare use development is permitted under ZO 1 Sustainable Residential Neighbourhoods where the objective is: 'To protect and provide for residential uses and amenities, local services and community, institutional, educational, and civic uses.' of the Cork City Development Plan 2022-2028,
- (b) the policies and objectives of the Cork City Development Plan 2022-2028,
- (c) the nature, scale and design of the proposed development and the availability in the area of infrastructure,
- (d) the planning history,
- (e) the pattern of existing and permitted development in the area,
- (f) the provisions of Housing for All, A New Housing Plan for Ireland, 2021,



- (g) the Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities prepared by the Department of Housing, Local Government and Heritage, 2024,
- (h) Urban Development and Building Heights Guidelines for Planning Authorities, prepared by the Department of Housing, Planning and Local Government in December 2018,
- (i) the Sustainable Urban Housing: Design Standards for New Apartments issued by the Department of the Environment, Community and Local Government 2023,
- (j) the Design Manual for Urban Roads and Streets (DMURS) issued by the Department of Transport, Tourism and Sport and the Department of the Environment, Community and Local Government in March 2013,
- (k) the provisions of the Climate Action Plan 2024,
- (l) the National Biodiversity Action Plan (NBPA) 2023-2030,
- (m) the policies and objectives set out in the National Planning Framework,
- (n) the policies and objectives of the Regional and Spatial Economic Strategy for the Southern Regional Assembly,
- (o) the grounds of appeal received,
- (p) the observations received,
- (q) the submission from the planning authority, and
- (r) the report of the Planning Inspector.



Appropriate Assessment Screening

The Board completed an Appropriate Assessment screening exercise in relation to the potential effects of the proposed development on designated European Sites, taking into account the nature, scale and location of the proposed development in a serviced urban area, the Appropriate Assessment Screening Report and other documentation submitted with the application to Cork City Council, the Inspector's report, and submissions on file received at application and appeal stage. In completing the screening exercise, the Board adopted the report of the Inspector and concluded that, by itself or in combination with other development in the vicinity, the proposed development would not be likely to have a significant effect on any European Site in view of the conservation objectives of such sites.


Environmental Impact Assessment Screening

The Board completed an Environmental Impact Assessment screening exercise of the proposed development and considered that having regard to the nature and scale of the proposed development, the nature of the receiving environment, and to the nature, extent, characteristics and likely duration of potential impacts, the Board agreed with and adopted the report of the Planning Inspector and concluded that the proposed development is not likely to have significant effects on the environment and that the preparation and submission of an Environmental Impact Assessment Report would not, therefore, be required.



Conclusions on Proper Planning and Sustainable Development

The Board considered that, subject to compliance with the conditions set out below, the proposed development would constitute an acceptable quantum and density of development in this zoned suburban location, would not seriously injure the residential or visual amenities of the area or of property in the vicinity, would be acceptable in terms of urban design, height and scale of development, would be acceptable in terms of impacts on pedestrians and traffic, would be acceptable in terms of the management and disposal of surface water and would provide an acceptable form of residential amenity for future occupants. The Board was satisfied that an approval for the proposed development would be consistent with national climate ambitions and with the relevant provisions of the Climate Action Plan 2024. Furthermore, the Board has performed its functions in relation to the making of its decision, in a manner consistent with Section 15(1) of the Climate Action and Low Carbon Act 2015, as amended by Section 17 of the Climate Action and Low Carbon Act 2021. The Board considered that the proposed development would be in accordance with the relevant provisions of the Cork City Development Plan 2022-2028, and 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 submitted to the planning authority on the 14th day of August 2024 and by the further plans and particulars submitted on to An Bord Pleanála on the 4th day of October 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. Prior to commencement of development, the developer shall submit, for the written agreement of the planning authority, design details for the proposed suspension bridge over the stream along the eastern side boundary access onto Ballyhooley Road.

Reason: In the interest of clarity and in the interest of proper planning and sustainable development.

3. The development shall be carried out on a phased basis, in accordance with a phasing scheme which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of any development. The phasing scheme shall provide for the completion of the creche facility prior to the making available for occupation of any of the dwellings.

Reason: To ensure the timely provision of services, for the benefit of the occupants of the proposed dwellings.

4. Details of the materials, colours and textures of all the external finishes to the proposed buildings 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.

5. Details of signage, waste management and hours of operation of the proposed Creche shall be submitted to, and agreed in writing with, the planning authority prior to the making available for occupation of the creche.

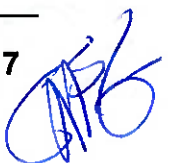
Reason: In the interest of clarity and in the interest of proper planning and sustainable development.

6. Prior to commencement of development, the developer shall submit, for the written agreement of the planning authority, revised drawings/specifications in compliance with the recommendation of the Road Safety Audit with the exception of the recommended provision of an appropriate connection onto the Ballyhooly Road at access junction.

Reason: In the interest of clarity and in the interest of proper planning and sustainable development.

7. The design and associated infrastructure of Attenuation Basin Number 4 incorporating the weir construction shall be as per revised drawings submitted to An Bord Pleanála on the 4th day of October 2024, Drawing reference numbers 23031-GA-44 B, 23031-GA-45 B, 23031-GA-46B and 23031-GA-49 B unless otherwise agreed in writing with the planning authority.

Reason: In the interest of clarity and in the interest of proper planning and sustainable development.



8. The mitigation measures contained in the submitted Ecological Impact Assessment (EclA) shall be implemented.

Reason: To protect the environment


9. The developer shall facilitate the preservation, recording and protection of archaeological materials or features that may exist within the site. In this regard, the developer shall:

- (a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation relating to the proposed development, and,
- (b) employ a suitably qualified archaeologist who shall monitor all site investigations and other excavation works.

Reason: In order to conserve the archaeological heritage of the site and to secure the preservation and protection of any remains that may exist within the site.

10. 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 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.



11. The internal road network serving the proposed development, including turning bays, junctions, parking areas, footpaths, kerbs, and the underground car parks 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). Details of all locations and materials to be used shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

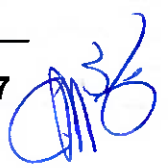
Reason: In the interest of amenity and of traffic and pedestrian safety.

12. A minimum of 10% of the proposed car parking spaces shall be provided with electric vehicle charging stations or points. The remaining car parking spaces shall be fitted with ducting for electric connection points to allow for future fitout of charging points. Details of how it is proposed to comply with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of sustainable transport.

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 commencement of development. The scheme shall include lighting along pedestrian routes through open spaces and shall be consistent with the biodiversity mitigation measures outlined in Ecological Impact Statement. 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. 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. All existing over ground cables shall be relocated underground as part of the site development works.

Reason: In the interest of visual and residential amenity.

15. Prior to commencement of development, the developer shall enter into Connection Agreements with Uisce Éireann (Irish Water) to provide for service connections to the public water supply and wastewater collection network.

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

16. (a) The landscaping shall be carried out within the first planting season following substantial completion of external construction works.
- (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.

17. 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 shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the agreed waste facilities shall be maintained, and waste shall be managed in accordance with the agreed plan.

Reason: To provide for the appropriate management of waste and, in particular recyclable materials, in the interest of protecting the environment and the amenities of properties in the vicinity.

18. 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 proper planning and sustainable development.

19. 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:
- (a) Location of the site and materials compound(s) including area(s) 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;
 - (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 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) Off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil;
- (l) Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains.
- (m) A record of daily checks that the works are being undertaken in accordance with the Construction Management Plan shall be available for inspection by the planning authority.

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

20. Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Friday inclusive, between 0800 to 1400 hours on Saturdays 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 amenities of property in the vicinity.

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21. (a) 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.
- (b) The communal open spaces, including hard and soft landscaping, car parking areas and access ways, communal refuse/bin storage, and all areas not intended to be taken in charge by the local authority, shall be maintained by a legally constituted management company.
- (c) Details of the management company contract, 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.



22. 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 land 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 the land 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.

23. (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,
- (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.

24. 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.

25. 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.



Chris McGarry

Member of An Bord Pleanála

**duly authorised to authenticate
the seal of the Board.**

Dated this 29th day of January 2025

