



An
Bord
Pleanála

Inspector's Report

ABP-312180-21

Development	Permission to construct 5 no. dwelling houses, 5 no. new site entrances and all associated ancillary site works.
Location	Ballincolly Road, Ballincolly, Ballyvolane, Co. Cork
Planning Authority	Cork City Council
Planning Authority Reg. Ref.	20/39696
Applicant(s)	Martin Byrne
Type of Application	Permission
Planning Authority Decision	Grant Permission with Conditions
Type of Appeal	First Party vs Condition 2 Third Party vs Decision
Appellant(s)	Ed Whitford
Observer(s)	None
Date of Site Inspection	19 th August 2022
Inspector	Phillippa Joyce

1.0 Site Location and Description

- 1.1. The appeal site is located on the Ballincolly (Ballincollie) Road, Ballyvolane in the northeast of Cork City. The receiving area is a historically rural area which has been progressively developed for residential use over various years. There are a range of dwelling types and formats in the area including a row of detached single storey cottages on Ballincolly Road, established residential estates of Carriglen and Ardagh Heights with detached dormer/ two storey dwellings on large plots, and more recently constructed detached dormer dwellings on individual plots on Ballincolly Road, and the newly constructed residential estate Coppenger Fields, with detached, semi-detached, terrace rows of dwellings.
- 1.2. The site is rectangular in configuration with a stated area of 0.577ha (as initially lodged). The site is an infill site bound to the east by Ballincolly Road (opposite the row of cottages), to the north by Ardagh Heights estate (specifically an area of public open space serving the estate), to the west by Carriglen estate (specifically 5 Carriglen), and to the south by a detached residence (The Willows, Site 2 of PA Ref. 17/4838).
- 1.3. The site is greenfield in nature, elevated above the level of the Ballincolly Road, and of a sloping topography, levels decreasing in a northerly direction (from 84mOD to 81mOD). The site boundaries comprise a sod and stonewall along the eastern boundary, and a mix of blockwall/ fencing/ vegetation along the western, southern, and northern boundaries with the adjacent properties.

2.0 Proposed Development

- 2.1. The proposed development comprises the development of five dwellings, individual vehicular entrances, and all site development works, including road widening and the provision of a 2m wide footpath along the eastern site boundary. The proposed development (as initially lodged) also comprised alterations to the site entrance and front boundary of Site 3 of PA Ref. 17/4838 (under the applicant's control, to also include for road widening and the footpath).
- 2.2. The proposed dwellings are detached two storey four and five bedroom dwellings. The dwellings are similar in architectural design and treatment (streamlined

elevations, fenestration styles and proportions, external finishes, boundaries) with slight variations in internal floor plans. The proposed development seeks to connect into the public systems (watermains and wastewater sewer) in the recently constructed Coppenger Fields estate, and surface water drainage is through on-site soakaways.

- 2.3. The planning authority requested Further Information (FI) on a range of items. In the FI response, the proposal was amended to six dwellings of varying housing mix (3, 4 bedrooms) with three shared vehicular entrances. The FI response included amendments to the redline boundary of the site, with the omission of Site 3 of PA Ref. 17/4838, the inclusion of an area to the south of the site (hedgerow adjacent to the road, for sightlines), and of an area to the northeast of the site (across the public road, linking to Coppenger Fields). The amendments to the site's redline boundary resulted in the stated area of the site reducing from 0.577ha to 0.285ha.

3.0 Planning Authority Decision

3.1. Summary of the Decision

- 3.1.1. On 17th November 2021, the planning authority issued a Notification of Decision to Grant Permission subject to 35 conditions. I highlight to the Board that the third party appeal is against the decision to grant permission, and the first party appeal is against Condition 2. For ease of reference, the condition and reason are provided in full below. Save for this condition, the majority of conditions are standard in nature and address transportation, water services, and construction related matters.

Condition 2:

Permission is given for 4 no. dwelling units only. Therefore, within 3 months of a final grant of permission, and prior to any development works taking place on-site, the developer shall submit amended drawings for agreement with the Planning Authority, that depicts Sites No. 3 & 4 omitted in lieu of a central communal open space. Permitted dwellings on Sites 1, 2, 5 & 6 shall be spaced suitably and linked to the open space, which shall be a minimum of 12% of the overall developable area. Drawings shall depict two no. shared entrances serving Sites 1-2 and Sites 5-6. The amended Site Layout Plan should re-number units accordingly, and include an

updated Housing Accommodation Schedule therein with housing mix as permitted and Total Areas included.

Reason: In the interests of clarity of the permission given, and in line with proper planning and sustainable development.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The planner's reports are the basis for the planning authority decision. The key items from the planner's initial and FI reports are summarised as follows:

- Principle of development on an infill site; the general design, scale, and height of proposed dwellings; and water infrastructure servicing of the proposal are considered acceptable;
- Concerns relate to the layout of the proposal (provision of open space, siting of dwellings); the mix of dwelling types; and traffic and access (entrances, footpath, pedestrian connectivity) issues;
- FI requested on eight items including procedural matter of southern portion of site (lands subject of PA Ref. 17/4838, a part implemented consent) being included in the redline boundary, evidence of land ownership, reduction in number of vehicular entrances, provision of open space, greater dwelling mix, road safety audit and construction management plan, clarity on footpath tie ins with other permitted footpaths, and public lighting proposals;
- FI response submitted to the planning authority on 22nd October 2021 resulted in changes to the scheme (outlined above in Section 2.5 of this report);
- Satisfactory resolution of the procedural matter, landownership and consents, traffic, access and pedestrian connectivity items; and
- FI response proposal for six dwellings with no public open space is not considered acceptable and an amended site layout is considered necessary requiring the provision of a centrally located area of public open space to through the omission of two dwellings (basis for Condition 2).

3.2.2. Other Technical Reports

Operations (Area Engineer): no objection subject to conditions (vehicular entrances, footpaths, surface water management, construction activities).

Operations (Rural Water): no objection, no conditions.

Roads and Transportation (Transport and Mobility): initial report recommended FI (safety audit for entrances, construction management plan, public lighting).

Subsequent FI report notes satisfactory resolution of items, no objection, subject to conditions.

Community, Culture and Placemaking (Urban Roads and Street Design): initial report recommended FI (rationalisation of entrances, tie in with footpaths to the north and south). Subsequent FI report notes satisfactory resolution of items, no objection, subject to conditions.

Environment (Drainage): notes Area Engineer report.

Environment (Waste): no objection subject to conditions.

3.3. **Prescribed Bodies**

Irish Water: no report received; pre connection enquiry form provided which indicated capacity in the IW networks currently available, and connection to networks can be facilitated.

Inland Fisheries Ireland: requests Irish Water indicates whether there is sufficient wastewater capacity for the proposal, so the existing treatment facilities are not overloaded, or polluting matters do not enter receiving waters.

Transport Infrastructure Ireland: no comment.

3.4. **Third Party Observations**

- 3.4.1. The planning authority indicates several third party submissions were received by the planning authority during the processing of the application (initial and FI response stages). The submissions, from residents of properties in Carriglen and on the Ballincolly Road, are in objection to the proposed development.
- 3.4.2. The issues raised in the submissions continue to form the basis of the grounds of appeal, which are outlined in detail in Section 6.0 below.

4.0 Planning History

Appeal Site

PA Ref. 20/1727

Section 97 Certificate of Exemption issued to the applicant on 25th November 2021 in respect of lands at Ballincolly Road, Ballyvolane.

Southern Part of Appeal Site/ Adjacent Site to the South

PA Ref. 17/4838 (part implemented)

Permission granted to C. Murphy in April 2017 for three dwellings, three wastewater treatment systems, three entrances and all site works.

At the time of site inspection, Dwellings in Sites 1 and 2 have been constructed. Site No. 3, adjacent to the appeal site, has not been implemented.

Adjacent Site to the Northeast (Coppenger Fields)

PA Ref. 21/40038 (being implemented)

Permission granted to O'Leary O'Sullivan Developments Ltd in September 2021 for 96 residential units.

PA Ref. 19/38655 (PA Ref. 17/06781)

Permission granted to O'Leary O'Sullivan Developments Ltd in February 2020 for amendments (change in house types) to PA Ref. 17/06781, which sought 74 dwellings.

At the time of site inspection, these permissions are being implemented and Coppenger Fields is at an advanced stage of construction.

5.0 Policy Context

5.1. National Policy

National Planning Framework Project Ireland 2040, 2018 (NPF)

5.1.1. The NPF identifies Cork as one of the country's five cities and a key location for future growth. Relevant to the appeal include national policy objectives:

- NPO 3b: Deliver at least half (50%) of all new homes that are targeted in the five Cities and suburbs of Dublin, Cork, Limerick, Galway and Waterford, within their existing built-up footprints;
- NPO 33: Prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location; and
- NPO 35: Increase residential density in settlements, through a range of measures including reductions in vacancy, reuse of existing buildings, infill development schemes, area or site-based regeneration and increased building heights.

Section 28 Ministerial Planning Guidelines

5.1.2. The following Section 28 Ministerial Guidelines are of relevance to the appeal. For ease of reference, I propose using the abbreviated references for the titles of certain guidelines, as indicated below.

- Sustainable Residential Development in Urban Areas, Guidelines for Planning Authorities, 2009, and the accompanying Urban Design Manual: A Best Practice Guide, 2009 (Sustainable Residential Development Guidelines);
- Design Manual for Urban Roads and Streets, December 2013 (DMURS);
- The Planning System and Flood Risk Management, Guidelines for Planning Authorities, 2009 (Flood Risk Guidelines); and
- Regulation of Commercial Institutional Investment in Housing, Guidelines for Planning Authorities, 2021 (Commercial Institutional Investment Guidelines).

5.1.3. As appropriate, specific requirements, policies, and objectives of the Section 28 Guidelines are cited and considered within the Section 7.0 Planning Assessment of this report.

5.2. Local Policy

Change between Development Plans

5.2.1. The Cork County Development Plan 2014-2020 (2014 CDP) was in effect at the time the planning application was lodged and assessed, and when the appeal was made on the planning authority decision. The appeal site was located within the development boundaries of the Cork City North Environs, in the Cobh Municipal District LAP (2017). As such, the application and/ or appeal documentation refer to policy in the 2014 CDP and/ or that of the 2017 LAP.

5.2.2. In the interim, the Cork City Development Plan 2022-2028 (2022 CDP) came into effect on the 8th August 2022 (the Draft Ministerial Direction issued to the planning authority is not applicable to the appeal case). Accordingly, therefore, this appeal is assessed with regard to the provisions of the 2022 CDP.

Cork City Development Plan 2022-2028

5.2.3. The relevant 2022 CDP map based designations include:

- The site, located on Map 13: North East/ Glanmire, is zoned as ZO 1 Sustainable Residential Neighbourhoods which seeks 'To protect and provide for residential uses and amenities, local services and community, institutional, educational and civic uses'; and
- There are no other map based designations or protections afforded to the site or in the vicinity of the site.

5.2.4. I consider the most relevant 2022 CDP local policy and/ or objectives to be:

- Chapter 3 Delivering Homes and Communities:
 - Objective 3.4 Compact Growth – at least 66% of new homes to be provided within the existing footprint of Cork, and optimising potential housing delivery will be achieved through the development of small and infill sites;
 - Objective 3.5 Residential Density – achieve higher urban densities whilst ensuring a balance between the protection of the established character of the surrounding area and existing residential amenities; and
 - Objective 3.9 Infill Development – support the development of small sites for new housing supply whilst still ensuring high standards of residential amenity for existing adjoining homes.

- Chapter 11 Placemaking and Managing Development:
 - Objective 11.3 Housing Quality and Standards, and Sections 11.87-11.89 – refers to best design qualitative (dual aspect, layout, orientation, open space) and quantitative standards (dwellings size, floor areas);
 - Public Open Space in Housing Developments, Section 11.112 – Apart from in exceptional circumstances, there is a requirement for 10% of the site area to be public open space in ‘general provision’, and 15% of the site area in ‘greenfield sites’;
 - Taking in Charge and Management Companies, Section 11.122 – areas of a development not being taken in charge shall be maintained by and the responsibility of a properly constituted private management company; and
 - Infill Development, Section 11.139 – new infill development shall respect the height and massing of existing residential units and enhance the physical character of the area by employing similar or complementary architectural language and typical features.
- Chapter 12 Land Use Zoning Objectives:
 - Sustainable Residential Neighbourhoods Policy ZO 1.2 – developments located in ZO 1 Sustainable Residential Neighbourhoods should respect the character and scale of the neighbourhood in which it is situated, and development that does not will be resisted.

5.3. Natural Heritage Designations

- 5.3.1. The appeal site is not located in or immediately adjacent to a European Site, a Natural Heritage Area (NHA) or a proposed NHA. There are no watercourses at or near the site.
- 5.3.2. The designations in proximity to the appeal site (with corresponding boundaries) include (measured at closest proximity):
- Cork Harbour SPA (004030) is c.4,075m to the southeast; and
 - Douglas River Estuary pNHA (001046) is similarly c.4,075m to the southeast.

5.4. Preliminary Examination Screening for Environmental Impact Assessment

5.4.1. Having regard to the nature and scale of the development proposed, the site location within an established built-up urban area which is served by public infrastructure and outside of any protected site or heritage designation, the nature of the receiving environment and the existing pattern of residential development in the vicinity, and the separation distance from the nearest sensitive location, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. This appeal case comprises a first party appeal against Condition 2 of the grant of permission, and a third party appeal (by E. Whitford, owner of 5 Carriglen, an adjacent property to the west of the site (signed by other residents, various signatories)) against the decision to grant permission for the proposed development.

First Party Grounds of Appeal

6.1.2. The main issues raised in the first party grounds of appeal can be summarised as follows:

- Welcomes decision to grant permission but should be for six houses as proposed in the FI response;
- Site is not suitable for a residential estate due to its linear shape and size;
- Opportunity to provide additional housing and flexibility is required in certain instances;
- Site can accommodate a site-specific infill development of a high quality scheme which is representative of slightly different approach to housing decisions than elsewhere in the city;
- Highlights upgrades in the Ballyvolane area by Irish Water (water and wastewater infrastructure) and National Transport Authority (bus connects);

- Condition 2 results in a scheme of four dwellings with a too low density of 14dph (calculated on the basis of a developable site area of 0.285ha) and an area of open space that will be incidental rather than usable;
- FI response results in a scheme with six dwellings with a more appropriate density of 23dph (calculated on the basis of a developable site area of 0.26ha) and includes a dual aspect design for the northern most Dwelling 1 overlooking an existing area of open space (adjacent to the north);
- Inconsistent approach to density and layout by the planning authority during the assessment, apparently seeking an increase in units at FI request and then a permission reducing the final total of units requiring shared entrances and open space;
- Established density along the Ballincolly Road is due to historic lack of water supply and foul drainage (e.g. adjacent dwellings to south are serviced by private wastewater treatment plants and bored wells);
- Proposed development is connecting to public systems and more appropriate comparison is Coppenger Fields development to north (25dph);
- Not possible to provide all FI request items (smaller units, greater housing mix, open space, shared entrances) and applicant determined most important item was provision of houses with generous rear gardens instead of public open space;
- Precedent in other infill schemes for non-provision of public open space and applicant requests same consideration of an in lieu contribution;
- Requests Board to omit Condition 2 and indicates preferred options for proposed development, Options 1-3;
 - Option 1: six dwellings, three shared vehicular entrances, 2m wide footpath, and proposed pedestrian crossing (uncontrolled, high rise table across public road) providing tie in with footpaths and access to Coppenger Fields development;
 - Option 2: five dwellings, two shared and one direct vehicular entrances, 2m wide footpath, public open space at northern portion of site, and pedestrian crossing (described above); or

- Option 3: proposed development as initially submitted save for the provision of the 2m wide footpath and a development contribution in lieu of public open space.
- Additional plans and particulars included in the first party appeal:
 - Site layout plans of the granted permission with Condition 2 requirements (four dwellings and a central area of open space), of Options 1-3, and site section plans of Option 1.

Third Party Grounds of Appeal

6.1.3. The following is a summary of the main issues raised in the third party grounds of appeal:

- Proposed entrances are a risk to current road users as the road is a narrow country road with no footpaths;
- Proposal is premature until footpaths provided;
- Environmental impact statement required due to the disturbance to and loss of local wildlife;
- Restricted surface water drainage in the area (rainwater naturally drains to the Ballincollie Stream) will be further restricted potentially resulting in flooding;
- Contamination of existing water supply for adjacent properties due to additional septic tanks and biocycle units;
- Assurances from Irish Water about connections and capacity are not strong enough;
- Finished floor level of the proposed dwellings should be restricted to that of the Ballincollie Road so that the dwellings are not higher than adjacent properties;
- Planning history of permissions refused due to the nature of the site;
- Items requested at FI stage, reduction in the number of dwellings and provision of open space, have not been addressed;
- Nature and character of the area is being altered by the proposal through the removal of the stonewall boundary;

- Public open space is not being provided in the proposal and if it is to be, it should be provided along the public road for visually amenity purposes;
- Scale and massing of the proposal comprising two storey urban dwellings is more suitable to housing estates and not rural locations/ on rural roads;
- Pattern of development is formed by cottages on one side and one-off houses on the other;
- More appropriate for proposed dwellings to be two storey in part (not fully) which would be more in keeping with the character of the area and the vast majority of adjacent dwellings in the immediate area;
- More appropriate to have a single entrance, maintaining the majority of the stonewall, providing a footpath on the inside of the wall, and open space alongside as a buffer; and
- Items not addressed are being left to be agreed by condition which is excluding members of the public from participating in the process.

6.2. Responses to Appeals

First Party Response

6.2.1. A response to the third party grounds of appeal has been received from the applicant, and the main issues raised can be summarised as follows:

- Options 1 and 2 include for road widening to 6m and provision of a 2m wide footpath with public lighting which will improve road safety and conditions for pedestrians;
- Site is primarily a vacant greenfield site with minimal tree cover, applicant willing to accept a condition for additional planting in the scheme;
- Surface water management includes on-site soakaways in individual plots, and connection to the public water and wastewater systems with no additional septic tanks or potential for water supply contamination;
- Request for dwellings with finished floor levels aligning with the Ballincollie Road would result in significant grounds works, which are unnecessary as the ridge heights of the dwellings do not exceed that of the appellant's property, 5 Carriglen, and to which there is a considerable separation distance;

- References to pre-planning or previous planning history is not of relevance to the current proposal;
- FI request was not consistent in terms of number of units to be provided, a greater mix of dwelling types was also sought and in providing smaller units, possible to provide six dwellings (justification for non-provision of public open space as per the first party appeal grounds);
- Road safety improvements are considered to be more important than maintain the sod and stonewall roadside boundary, c310m of which has already been removed for the Coppenger Fields development;
- Sod and stonewall boundary will be replaced with a new natural stone clad boundary wall;
- Public open space exists in Ardagh Heights (1,368sqm) and Coppenger Fields (2,250sqm) which the proposed development (Options 1 and 2) has regard to (passive surveillance, adjoining with, pedestrian linkage to); and
- Design of proposed dwellings (height, scale, architectural treatment) similar to those in Coppenger Fields.

Third Party Response

6.2.2. No response has been received from the third party on the first party appeal.

6.3. Planning Authority Response

No response has been received from the planning authority on either the first or third party appeals.

6.4. Observations

No observations have been made on the appeal case.

6.5. Further Responses

6.6. No further responses were made on the appeals.

7.0 Assessment

7.1. Introduction

7.1.1. Following a review of the application and appeal documentation, I consider the main issues in this appeal case to be as follows:

- Zoning Provisions;
- Residential Density;
- Layout and Design;
- Traffic and Access;
- Services and Utilities;
- Other Issues; and
- Appropriate Assessment Screening.

I propose to address each item in turn.

7.2. Zoning Provisions

7.2.1. At the time the planning application was lodged, and appeals made, the Cork County Development Plan 2014-2020 (2014 CDP) was in effect, the site was located in the development boundaries of the Cork City North Environs in the Cobh Municipal District LAP (2017 LAP), and zoned as 'Existing Built Up Area'. In the interim, the Cork City Development Plan 2022-2028 (2022 CDP) has come into effect and is the applicable CDP for the assessment of the appeal case.

7.2.2. The zoning objective for the site in the current 2022 CDP has changed to ZO 1 Sustainable Residential Neighbourhoods which seeks 'To protect and provide for residential uses and amenities, local services and community, institutional, educational and civic uses'. I confirm to the Board that residential development is a permitted use therein, and there are no new designations pertaining to the site.

7.3. Residential Density

7.3.1. The proposed development is a small residential scheme in an infill site in an established residential area of an outer suburb of Cork City. The policy context for the appropriate development of the site, in terms of density and overall design approach, is determined by policy in the Sustainable Residential Development Guidelines and the 2022 CDP.

- 7.3.2. From the guidelines (Section 5.9, Inner Suburban/ Infill), increased densities are to be encouraged on residentially zoned lands within suburban areas of cities, whilst protecting the amenities and privacy of adjoining dwellings, and the established character of the residential area. In this regard, the guidelines do not specify a density range for infill developments due to the relevance of context. From the 2022 CDP, in similarity with the guidelines, CDP policy for compact growth and infill developments focuses on qualitative standards, requiring high quality sustainable residential development appropriately located in the city's footprint whilst respecting the character and scale of the receiving neighbourhood through use of similar or complementary height, massing, and architectural language, rather than exact quantitative standards.
- 7.3.3. The density of the proposed development features in the planning authority assessment and the first party appeal grounds. I note the planning authority attempts to balance an appropriate residential layout, ensuring sufficient standards particularly regarding public open space, with achieving the efficient use of the zoned and serviced lands. In the first party appeal, the applicant highlights the attempt to achieve all items has not been possible due to the nature of the site, and gave priority to the provision of the maximum number of dwelling units.
- 7.3.4. The applicant calculates the density of the proposal as amended by Condition 2 as 14dph and the density of the applicant's preferred Option 1 (six dwellings, as per FI response site layout) as 23dph. The former is described by the applicant as too low, and the latter as more appropriate and consistent with that of Coppenger Fields. As I stated above, while the policy context is not absolute on density for infill developments, in the interests of sustainability, I concur with the applicant and believe the implications of Condition 2, whereby only four dwellings are permitted, is not the most optimum density the appeal site could yield. I consider a residential density of c.23dph to be appropriate when due regard is given to the nature of the site (which I consider to be restricted in terms of its depth to satisfactorily achieve an accessible central area of open space), the character of the receiving area (which I consider to be highly divergent in terms of density due to the range of development formats), and the impact of the proposal on the amenities of the area.
- 7.3.5. In summary, I consider the proposed development complies with the stated national (NPO 3b and 35, and planning guidelines Section 5.9) and local policy (Objectives

3.4, 3.5, 3.9, Section 11.139, Policy ZO 1.2) for infill developments. The proposal constitutes an increase in density from the historic pattern of development of the area (one-off dwellings, low density residential estates), whilst maintaining the newly emerging character of the area (smaller plots, reduced separation distances), and protecting the residential amenities of the adjacent properties (discussed in the following subsections).

7.4. Layout and Design

- 7.4.1. As the site is an infill site in an existing residential area, the policy context requires a design approach that protects the amenities of adjacent properties and the character of the area. The appellant is critical of the layout of the scheme (out of character, not in keeping with the pattern of development) and of the design of the dwellings (excessive in height, scale, and massing). I propose addressing layout and design in turn below.

Layout

- 7.4.2. The appellant states the layout of the proposal adversely impacts the character of the area through the removal of the stonewall and format as a housing estate, and that it is inconsistent with the pattern of development in the area, which is stated as being formed by cottages and one-off houses. A more appropriate layout for the proposal is suggested as having a single entrance, maintaining the majority of the stonewall, providing a footpath on the inside of the wall, and open space alongside the road as a visual buffer. While I note the concerns of the appellant, as outlined previously, in my opinion the character of the area is one of variation and flux. In terms of an appropriate layout, I consider one reflective of and consistent with the row of cottages adjacent to the east and linear arrangements in Coppenger Fields to be an acceptable design response for the appeal site.
- 7.4.3. In the first party appeal, the applicant submits four site layout plans with variations in dwelling numbers, siting, and open space provision (as outlined above in Section 6.1.2 of this report). These include a site layout plan with the requirements of Condition 2 indicated. This layout includes for a central area of open space and four dwellings (two either side of the open space) orientated to address the public road. That being, the dwellings do not directly address or have direct links to the open space as access is achieved via the footpath.

- 7.4.4. Condition 2 requires that the four permitted dwellings are ‘linked to the open space’ and accordingly I consider there to be another interpretation of the condition whereby the four dwellings and plots would be reorientated to address the central area of open space, with the result that their side elevations and rear boundary walls would address the road. I acknowledge the planning authority’s attempt to amend the proposal into a more conventional residential estate layout, however, I consider that in both of the above scenarios, the layout specified in Condition 2 is unsatisfactory. In this instance, due to the nature of the site (its linear configuration, restricted depth), the length of road frontage, and the opportunity to create a new streetscape along this part of the Ballincolly Road, I concur with the applicant, and recommend in the event of a grant of permission, that Condition 2 be omitted.
- 7.4.5. The applicant requests that the Board grant permission for Option 1 and apply a development contribution in lieu of the provision for open space. The applicant submits that due to the nature of the site a design solution providing open space is not readily available, that Condition 2 results in an unusable inefficient area, and that the on-site provision is not necessary due to the existence of large open space areas in adjacent estates of Ardagh Heights and Coppenger Fields. While I note the appellant’s position and justification for not including open space, I do not consider the proposed development to come within the scope of ‘exceptional circumstances’ as referred to in 2022 CDP Section 11.112.
- 7.4.6. In considering an appropriate layout, while I am satisfied that a linear arrangement with the dwellings addressing the road is satisfactory, I concur with the planning authority that the proposal should include an area of public open space for the enjoyment of future residents. As such, I am satisfied that the proposed layout indicated as Option 2 on the site layout plan (Drawing Number 19_017_P-04(b)R1_FI) received by the Board in the first party appeal (which was also included as an alternative design in the FI response submitted to the planning authority) is the most appropriate layout for the scheme. This layout includes a northern portion of the site designated as open space (suitably sized at 12% of the developable area of the site, between the 2022 CDP requirements for general provision and greenfield sites), is overlooked by Dwelling 1 (House Type D), is safely accessible by residents of dwellings in the scheme via the footpath with public lighting, and has potential for linkages with the open space in Ardagh Heights.

- 7.4.7. A relevant consideration for the open space is its being taken in charge. I note that there is no Parks section report on the application, and no response was received from the planning authority on the appeals. I consider a reasonable solution to the matter can be for the applicant to agree taking in charge details with the planning authority and, as necessary, the establishment of a management company with responsibility for same. This is a conventional solution in such instances and allowed for under 2022 CDP policy (Section 11.122 requires areas of a development not being taken in charge to be maintained by and the responsibility of a private management company). In event of a grant of permission, I consider the matter can be addressed by way of condition.
- 7.4.8. In the interests of clarity, the remainder of the assessment is based on the site layout plan (Drawing Number 19_017_P-04(b)R1_FI submitted to the planning authority as further information on the 22nd day of October 2021 and as received by An Bord Pleanála on the 14th day of December 2021) indicating five dwellings and a suitably sized area of public open space.

Design

- 7.4.9. In terms of the architectural design of the proposed dwellings, the appellant finds the scheme to be excessive in terms of height (requests finished floor levels to align with the level of the public road), scale and massing (overly dominant two storey design). The dwellings are detached in typology, two storey in height (principal height of c.9.4m), 3 and 4 bedroom units with streamlined elevational treatment and external finishes (mix of render, stone finishes).
- 7.4.10. In terms of levels and height, I note that the site is higher than the public road and that the site slopes downwards in a northerly direction. In cross section, the existing ground level is indicated as being cut to accommodate the proposed dwellings which are stepped in roof ridge height. I agree with the applicant's response on the matter and do not consider it necessary for further earthworks so as to align the finished floor level of the dwellings with that of the road as I do not consider the dwellings to be visual dominant or incongruous in the streetscape.
- 7.4.11. In terms of scale and massing, I do not consider the two storey design to be excessive. While there is some variance between the proposed development and the receiving area, I find these to be minimal and not to be of an extent that the

proposed dwellings would be jarring or injurious to the visual amenities of the area due to the range and divergence in the designs of adjacent dwellings. Conversely, I consider the design approach for the proposed development to have had regard to the receiving context, including the newly constructed Coppenger Fields, and be appropriate for the appeal site.

7.4.12. In summary, I consider that the proposed development will not negatively impact on the amenities of the area, including the residential amenity of adjacent properties, by reason of overbearance (due to scale and massing), overshadowing (due to siting and orientation), overlooking (due to fenestration design and separation distances), or scale of impacts (traffic generation and capacity in public water systems). In the interest of clarity, I highlight to the Board that I have reviewed the plans and particulars (including the schedule of accommodation) of the proposed dwellings and confirm that the future residents of the proposed development will enjoy acceptable standards of residential amenity in properties that comply with all relevant 2022 CDP requirements (Objective 11.3 Housing Quality and Standards, and Sections 11.87-11.89), in a residential scheme provided with public open space, landscaping, footpaths, and lighting.

7.5. Traffic and Access

7.5.1. The grounds of appeal include that the proposed development is a traffic safety risk due to the number of entrances accessing onto a narrow road, and that the proposal is premature until footpaths have been provided. The applicant refutes the grounds stating that the proposal (as revised in the FI response) includes for the widening of the road from 3.5m to 6m, and the further provision of a 2m wide footpath with public lighting, both of which will improve road safety and conditions for pedestrians.

7.5.2. I have reviewed the relevant information in the application (site layout plan with sightlines, safety audit report, public lighting scheme, construction management plan), relevant planning authority reports (Area Engineer, Transport and Mobility, Urban Roads and Street Design sections), the planning history for Coppenger Fields, and requirements of DMURS.

7.5.3. The proposed development includes for the removal of the existing stonewall along the eastern site boundary with the public road, the provision of a 2m wide footpath along the road edge (with public lighting, and connection via a pedestrian crossing to

existing footpaths in Coppenger Fields), widening the public road to 6m, and three new vehicular entrances (one serving Dwelling 1, two shared entrances serving Dwellings 2 and 3, and Dwellings 4 and 5).

- 7.5.4. In respect of traffic safety, I positively note the reduction and rationalisation of the number of vehicular entrances from five individual entrances (as initially proposed) to three shared entrances (in the FI response). Due to the relatively straight road conditions and proposed hedgerow management (in a northerly direction, with a letter of consent from an adjacent landowner in the FI response, and in a southerly direction, where the applicant is the landowner), adequate sightlines from the entrances (DMURS compliant) are achievable in both directions. In respect of pedestrian safety, the FI response indicates footpath tie ins and a pedestrian crossing providing access to the Coppenger Fields development to the northeast which I note will allow for increased pedestrian connectivity within the wider area between new developments and public open spaces. I also note that public lighting is included for along the footpath (the initial proposal of five 8m high lighting columns was reduced to four at FI response stage due to the reconfiguration of the site's redline boundary).
- 7.5.5. The planning authority reports indicate acceptance of the entrance designs with adequate sightlines for the local road conditions (availability of 80m sightlines for a tertiary road with 80kph speed limit), road widening with the provision of footpath to tie in with Coppenger Fields through the provision of a raised table uncontrolled crossing (DMURS compliant), adequate in-curtilage parking of two spaces, and inward opening gates. I concur with the planning authority and consider these to be satisfactory arrangements that can be conditioned accordingly.
- 7.5.6. With regard to construction traffic activities and traffic generation associated with the proposal, I am satisfied these can be safely undertaken and absorbed without undue impact on the existing road network or the creation of a traffic hazard for vehicular and pedestrian users. The application includes an outline Construction and Environmental Management Plan submitted at FI response stage which outlines the road conditions, the route for vehicles accessing the site, and management of construction traffic. I consider the traffic impacts associated with the construction phase to be temporary, conventional, and managed. In the event of a grant of permission, I recommend a condition requiring final agreement with the planning

authority on a construction management plan inclusive of a construction traffic management plan. The proposed development comprises five dwellings each provided with two car parking spaces. I consider the potential increase in traffic generation to be well within reasonable levels of activity for a smallscale infill development within an established residential area, and to be acceptable in terms of carrying capacity on the surrounding road network.

- 7.5.7. In summary, I consider that the proposal is appropriately designed, has been subject to a road safety audit, and is/ will be compliant with DMURS requirements. While there will be an impact on the adjacent properties due to the change from the undeveloped nature of the site at present, I consider that the proposed development connecting into the existing road and footpath infrastructure, can be provided safely at this location without creating a traffic hazard, endangering public safety, or causing a loss of amenity to the adjacent properties.

7.6. Services and Utilities

- 7.6.1. Among the grounds of appeal are concerns relating to the surface water and wastewater drainage proposals for the scheme. The appellant states the proposal will further restrict surface water drainage in the area increasing potential for flooding, will contaminate water supply for adjacent properties due to an increase in treatment plants, and that Irish Water infrastructure assurances are insufficient.
- 7.6.2. I have reviewed the relevant information in the application (drainage plans and particulars), relevant planning authority reports (Area Engineer, Rural Water, and Drainage sections), the pre connection form from Irish Water (the planner's report indicates no Irish Water report was received on the application), and the planning history for Coppenger Fields.
- 7.6.3. In respect of the wastewater, the proposed development is to connect and discharge to the public sewer in Coppenger Fields and, as is highlighted in the applicant's appeal response, will not be serviced by individual treatment plants. Irish Water's pre connection form indicates there is sufficient capacity in the wastewater infrastructure for the proposal and, accordingly, I do not consider there to be any potential for adverse environmental impact or contamination of local water supply. In respect of water supply, in similarity with wastewater drainage, the proposed development is to connect to the public mains in Coppenger Fields. Irish Water's pre

connection form indicates there is no issue with capacity nor other impediment to connection to the system. While the appellant states Irish Water assurances are insufficient, as the competent authority for water services infrastructure finds the proposal to be acceptable, I am satisfied that the Board can rely on same and that the servicing of proposal can be achieved without adverse impact on the receiving area. In the event of a grant of permission, water supply and wastewater servicing of the proposal can be addressed by condition.

7.6.4. In respect of surface water drainage, each individual plot has two soakaways for the on-site attenuation and disposal of surface water. The planning authority reports indicate acceptance of the surface water management whereby one soakaway serves impermeable surfaces at the dwelling/ hard standing areas and the other at the site entrance to prevent runoff flowing to the public road. I concur with the planning authority and consider this to be a satisfactory arrangement that can be conditioned accordingly.

7.6.5. Finally, in respect of flood risk, while I note the claim of the appellants regarding increased potential for flooding due to restrictions in drainage, I have reviewed available flooding sources and confirm the site is not located within any river or coastal flood extents, and there is no record of past flood events. The Strategic Flood Risk Assessment prepared for the 2022 CDP confirms same. In this regard, in the absence of any documentary evidence from the appellant, I consider the claims of flood risk have not been substantiated from data in the available records nor has an increase in flood risk to the area arising from the proposal been demonstrated in a flood risk assessment.

7.7. Other Issues

7.7.1. As the site is zoned for residential purposes and the proposal is for residential development, consideration is required in respect of compliance with Part V requirements. The planning history at the site includes a Part V exemption certificate being in place. No condition in respect of same need be attached in the event of a grant of permission.

7.7.2. As the proposal is for five dwellings, which are own-door units and fall within the definition of structure to be used as a dwelling, the provisions of the Commercial

Institutional Investment Guidelines apply, and I consider that a condition to restrict the first occupation of these units as outlined by the guidelines should be attached.

- 7.7.3. I note that the appellant is critical that the planning authority's assessment, attachment of Condition 2, and the applicant's range of options has caused uncertainty regarding the nature of the proposed development and exclusion of members of the public from participating in the planning process. I accept that the process has been iterative and undertaken in steps, however, I am satisfied that the process has been clear, the stages can be traced (initial lodgement, FI response, appeal), and that the appellant has been involved in the decision making process for each stage.

7.8. Appropriate Assessment Screening

- 7.8.1. Having regard to the nature and scale of the proposed development, the location of the site within an adequately serviced urban area, the absence of ecological and/ or hydrological connections, and the physical separation distances to European Sites, I consider the potential of likely significant effects on European Sites arising from the proposed development, alone or in combination effects, can be reasonably excluded.

8.0 Recommendation

- 8.1. I recommend that permission be granted based on the following reasons and considerations, and subject to the attached conditions.

9.0 Reasons and Considerations

Having regard to the zoning objective of the site in the Cork City Development Plan 2022-2028, to the design and scale of the proposed development, to the infill nature of the site, and to the pattern of development in the vicinity, it is considered that the proposed development would not seriously injure the residential or visual amenities of the area or of property in the vicinity, would represent an appropriate residential density, would be acceptable in terms of traffic safety and convenience, would not endanger public health, and would comply with the relevant provisions of the Cork City Development Plan 2022-2028, the National Planning Framework, and the Sustainable Residential Development in Urban Areas, Guidelines for Planning

Authorities. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1.	<p>The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further information plans and particulars submitted to the planning authority on the 22nd day of October 2021, and by the further plans and particulars received by An Bord Pleanála on the 14th day of December 2021 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.</p> <p>Reason: In the interest of clarity.</p>
2.	<p>Permission is hereby granted for five dwellings units and an area of public open space in accordance with Drawing Number 19_017_P-04(b)R1_FI submitted to the planning authority as further information on the 22nd day of October 2021 and as received by An Bord Pleanála on the 14th day of December 2021.</p> <p>Reason: In the interest of clarity, and to safeguard the amenities of future residents.</p>
3.	<p>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/ street signs and house numbers, shall be provided in accordance with the agreed scheme.</p> <p>Reason: In the interest of urban legibility.</p>
4.	<p>Details of the materials, colours, and textures of all the external finishes to the proposed development shall be as submitted with the application,</p>

	<p>unless otherwise agreed in writing with the planning authority prior to commencement of development. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.</p> <p>Reason: In the interest of visual amenity.</p>
5.	<p>Construction of the proposed 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.</p> <p>This plan shall include inter alia: details and location of site offices, staff facilities, site compounds, on-site parking facilities, storage locations (for plant, machinery, materials), intended construction practice for the development including noise and dust management measures, a construction traffic management plan with details on access arrangements, haulage routes, timing and routing details for deliveries and disposal trips, staff parking, measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network, and directional signage.</p> <p>Reason: In the interests of amenity and public safety.</p>
6.	<p>Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays.</p> <p>Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.</p> <p>Reason: In order to safeguard the amenities of properties in the vicinity.</p>
7.	<p>All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. All existing over ground cables shall be relocated underground as part of the site development works.</p> <p>Reason: In the interests of visual amenity.</p>

8.	<p>Public lighting shall be provided in accordance with a scheme, which shall include lighting along pedestrian footpaths and within/ along routes through the area of public open space, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development/ installation of lighting. Such lighting shall be provided prior to the making available for occupation of any dwelling.</p> <p>Reason: In the interests of amenity and public safety.</p>
9.	<p>(a) A site layout plan indicating the areas and/ or infrastructure to be taken in charge by the local authority shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p>(b) In the event of areas and/ or infrastructure not being taken in charge by the local authority, the management and maintenance of same shall be the responsibility of a legally constituted management company. A management scheme providing adequate measures for the future maintenance of same shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p>Reason: To provide for the satisfactory future maintenance of this development in the interest residential amenity and public health.</p>
10.	<p>Drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.</p> <p>Reason: In the interest of public health and surface water management.</p>
11.	<p>The developer shall enter into water and/ or wastewater connection agreement(s) with Irish Water prior to commencement of development.</p> <p>Reason: In the interest of public health.</p>
12.	<p>The road network serving the proposed development, including entrances, parking areas, footpaths, crossings, and kerbs, shall be in accordance with all relevant provisions as outlined in the Design Manual for Urban Roads and Streets.</p>

	<p>Reason: In the interest of amenity, and to ensure traffic and pedestrian safety.</p>
13.	<p>In-curtilage car parking spaces serving residential units shall be provided with electric connections to the exterior of the houses to allow for the provision of future electric vehicle 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.</p> <p>Reason: To provide for and/ or future proof the development such as would facilitate the use of electric vehicles.</p>
14.	<p>A comprehensive boundary treatment and landscaping scheme shall be submitted to and agreed in writing with the planning authority, prior to commencement of development. This scheme shall include the following:</p> <p>(a) details of all proposed hard surface finishes including materials for footpaths, kerbing and road surfaces within the development;</p> <p>(b) proposed locations of trees and other landscape planting in the development, including details of proposed species and settings;</p> <p>(c) details of proposed street furniture, including bollards, lighting fixtures and seating; and</p> <p>(d) details of proposed boundary treatments (at the perimeter of the site, between individual plots, and the area of public open space), including wall/ fence heights, materials, and finishes.</p> <p>The boundary treatment and landscaping shall be carried out in accordance with the agreed scheme.</p> <p>Reason: In the interest of visual amenity and to safeguard the amenities of properties in the vicinity.</p>
15.	<p>The area of public open space shown on the lodged plan Drawing Number 19_017_P-04(b)R1_FI shall be reserved for such use and shall be levelled and/ or contoured, as applicable, soiled, seeded, and landscaped in accordance with the landscape scheme (subject of Condition 14) submitted</p>

	<p>to and agreed in writing 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/ in the event that it is taken in charge by the local authority.</p> <p>Reason: In order to ensure the satisfactory development of the public open space area, and its continued use for this purpose.</p>
16.	<p>Prior to the commencement of any house or duplex unit in 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, as amended, that restricts all houses and duplex 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.</p> <p>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.</p>
17.	<p>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.</p> <p>Reason: To ensure the satisfactory completion and maintenance of the development until taken in charge.</p>

18.	<p>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.</p> <p>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.</p>
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Phillippa Joyce

Senior Planning Inspector

14th October 2022