



An  
Bord  
Pleanála

## Inspector's Report

**ABP-320126-24**

<b>Development</b>	Construction of 4 residential dwellings with minor alterations (as permitted under planning ref 18/5534), together with all associated site works.
<b>Location</b>	Lus an Ime, Spital, Cloyne, Co. Cork
<b>Planning Authority</b>	Cork County Council
<b>Planning Authority Reg. Ref.</b>	244567
<b>Applicant(s)</b>	Kenneally Developments Ltd.
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant with conditions
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	John Kenneally Peter and Inger North
<b>Observer(s)</b>	Residents of Lus An Ime
<b>Date of Site Inspection</b>	17 <sup>th</sup> November 2024
<b>Inspector</b>	Suzanne Kehely

## **1.0 Site Location and Description**

- 1.1. The site (0.1098ha) as outlined in red is centrally located within a new housing development Lus an Ime at the western side of Cloyne Village, south of the R631 between ribbon development and farmed lands. The site relates to an incomplete section of the housing development that is otherwise partly occupied. It is a corner site with frontage to the west onto 'The Crescent' which has been substantially completed and to the north it fronts an incomplete estate road 'The Court' whereas the other two-sides adjoin house plots. Established detached houses fronting the R631 are opposite the site in that they back onto the northern side of 'The Court'. At time of inspection there was an opening from the garden of one of these dwellings onto the internal estate road. At time of inspection the footprint and curtilage of four houses (two pairs of semidetached dwellings) that have been partly constructed to foundation level were evident. The building lines to the front and rear are established by the existing houses on the same side of the road - 'The Court'. The road has been completed to the front of the existing houses and has been finished with hard and soft landscaping which is substantially complete in an orderly manner.

## **2.0 Proposed Development**

- 2.1. The proposal seeks to renew permission for 4 houses previously permitted under 18/5534 as part of a development of 8 dwellings fronting 'The Court'. Four of the houses under 18/5534 have been constructed and this now applies to the remaining undeveloped area to complete the 8 dwellings with minor alterations.
- 2.2. The differences in this proposal are a slight modification to the site boundary and interface with road and elevation changes to window detail (raising of cill height at ground level to rear and revised windows in projecting bay in the facade).
- 2.3. The site incorporating plot nos. 25, 26, 27 and 28 is marginally deeper as it incorporates the footpath area. Plot no.28 is wider than that previously permitted and incorporates what was previously part of 'The Court' hammer head and residual ground associated with 'The Crescent' estate road to the west and south. The layout drawings show boundary details and plot no. 28 is screened by a 1.8m from 'The

Crescent' to the west. The layout plans show provision of a screen wall dividing 'The Crescent' and 'The Court' although this is outside the site as delineated. Other details include:

- The submitted drawings include details relating to boundary treatment, grading of road and footpath, watermain layout, foul sewer sections and foul and surface water sewerage layout which serve and connect to the proposed dwellings.
- Unsolicited further information confirms no through road between the Court and the Crescent.
- Part V agreement details submitted as unsolicited further information on 18<sup>th</sup> April. The application form is amended stating it is subject of Part V.
- An Archaeological Assessment dating from 2017 was also submitted as unsolicited FI. This confirms that there are no archaeological remains on site nor is there considered to be any archaeological impediment to developing the site. No further archaeological intervention is recommended.

### 3.0 Planning Authority Decision

#### 3.1. Decision

Following a request for **further information** regarding insufficient capacity of the Cloyne WWTP and consideration of response, the planning authority by Order on 23<sup>rd</sup> June 2024 decided to **grant permission** subject to 15 conditions

#### 3.2. Planning Authority Reports

3.2.1. Planning Reports: The PA describes the site as being within a housing development within the development boundary of Cloyne and subject to residential type zoning (ZU 18-9). The assessment has regard to:

- the overall stage of the housing development - the sites are the last remaining unit in this part of the estate that commenced in mid 2000s,
- the density and open space having regard to the previous permission and the Sustainable Residential Development and Compact Settlement – Guidelines for

Planning Authorities and its aims and specific policy objectives while having regard to the character of Cloyne in terms of density and growth,

- the design detail as an improvement and having no perceptible impact on neighbouring dwellings,
- access and parking which does not include any interconnection between the Court and the Crescent - two car park spaces are acceptable having regard to lack of public transport infrastructure in Cloyne, and
- connection to public water supply and sewerage network having regard to capacity of Wastewater Treatment Plant for Cloyne and no evidence of connection agreement. (This was subject of a further information request and dealt with to the satisfaction of the Planning authority.)

3.2.2. Planning Report (20/6/24) On review of the further information and internal reports and having regard to the recent permission for 7 houses in another part of the same housing development, it is considered that the matter of water connection can be addressed by condition.

3.2.3. Other Technical Reports

- **Water Services Report** on further information: This report appraises the submitted details in FI on the wastewater connection and notes that the existing connection agreement provided by the applicant is for 21 houses and that it does not clearly include the subject dwellings as this remains to be agreed with Uisce Eireann. All Cloyne PCEs and applications are noted to be refused now until Cloyne WWTP upgrade timelines are known which is circa 2027. This means connection will not be received until completion of the plant which will not be until 2027. Otherwise, there is no objection on environmental grounds subject to connection agreements.
- Estates: Welcomes the completion of the overall development having regard to the piecemeal development over many years. 6 conditions recommended relating to detail standards and specifications.
- Public lighting: No objection subject to conditions.
- Housing officer: No objection

- Area Engineer (3/5/2024) no objection on engineering grounds. Water and drainage matters for UE although recommends conditions relating to surface water and satisfactory connection to water supply. Site notice was noted as being displayed on 2/5/2024.
- Water Services: (29/4/2024) This initial report flags capacity issues of the WWTP serving the proposed development as of 2023. There is no available capacity. The Cloyne WWTP upgrade is at early design stage and delivery of scheme is post 2027. Permission should be contingent on connection agreement in place. Deferral of decision recommended pending Further Information seeking applicant to engage with Irish Water and get pre connection agreement to confirm connection is feasible prior to permission.

#### 3.2.4. Conditions

- The PA has attached a number of conditions relating to detailed specification for services such as public lighting, civil works and utilities as well requiring a **pre-connection agreement from Irish Water having regard to the capacity issues**. This is addressed in the assessment.

### 3.3. Prescribed Bodies

Uisce Eireann: In a letter to the applicant dated 20<sup>th</sup> July 2020, a connection agreement is made for the Lus An Ime development

### 3.4. Third Party Observations

Three observations were made objecting to the development on the basis of principle, site layout and potential alterations to road layout and impact on amenities.

## 4.0 Planning History

4.1. The planning authority report sets out the planning history for the housing estate. The most relevant cases are:

- PA ref 18/5534 refers to a grant of permission for modifications of house type for site largely incorporating the subject site. It sought to change the house density

and layout by replacing 5 single storey houses (as permitted under pa ref 16/5726) with 8 houses on the same site. 4 of these have been constructed

- ABP 320113/ PA 23/6364 is a concurrent live appeal case in the same area. The site as delineated incorporates the road network of the same housing development served by the same access off the R631, a separate housing enclave ('The Close') and 'The Court' estate route from its entrance at R631 to where the road terminates west of the subject site. Permission is sought for phase 3 works in the wider development and involves: change of house type and increase from 4 to 6 houses, completion of house type N at plot no.26 'The Court' and associated site works. A pedestrian link between 'The Crescent' and 'The Court' is reinstated in revised plans submitted as part of further information in accordance with the previous permission. FI also includes details on boundary treatments, drainage and site works.

4.1.1. In relation to the progress of the WTP for the Cloyne the following is relevant.:

- ABP317334 refers to permission for construction of extension to existing Whitegate Regional Water Treatment Plan in Cloyne County Cork. (Date of Order 29<sup>th</sup> January 2024.) This work is underway.

## **5.0 Policy Context**

### **5.1. Development Plan**

- 5.1.1. The site is within the development Boundary of Cloyne which is a 'Key Village' in Volume 4 and is zoned for 'Existing Residential/Mixed Residential and Other Uses' as indicated in Volume 6 of the Cork County Development Plan 2022-2028 (CDP).
- 5.1.2. The vision and objectives for the village are set out in Volume 4 of the CDP. The vision is to promote village centre renewal within a strong village core while protecting the unique character and setting of the village to achieve a sustainable level of residential and commercial development in conjunction with the provision of services and infrastructure. A total of 195 houses are envisaged in the plan period. Cloyne and Castlemartyr WWTPs are currently not compliant with Wastewater Discharge Licence emission limit values but are capable of achieving at least UWW standards Other relevant sections of Volume 4 are set out below.

- 5.1.3. **Water Supply** (section 3.7.20): A public water supply is available in the village and forms part of the Cloyne Aghada Whitegate Regional Water supply scheme. The interlinked Cloyne –Aghada scheme is operating close to full capacity however currently it is envisaged that there is capacity available to cater for proposed draft population targets. There is a risk of supply interruption during drought or freeze-thaw conditions. Further intervention may be required to provide a supply and level of service that meets best international standards. 3.7.21 Some works are required to reduce the vulnerability of the scheme to pollution of existing sources by augmentation and upgrade with new sources.
- 5.1.4. **Waste Water** (section 3.7.22- 3.7.23): Cloyne's wastewater treatment plant was commissioned in 2010 and has a PE design of 1,400. There are assimilative capacity issues concerning the stream receiving the treated effluent from Cloyne. The treatment capacity needs to be upgraded as the discharge is to designated shellfish waters and proposed designated bathing areas.
- 5.1.5. The Wastewater Treatment Plant is currently not compliant with Wastewater Discharge Licence Emission Limit Values. Cloyne WWTP therefore does not have the capacity to accommodate all proposed development in Cloyne. Cloyne is on the Draft Irish Water Investment Plan 2020 – 2024. Waste-water treatment capacity in Cloyne will be available once capital upgrade project is completed.
- 5.1.6. **Flooding** (section 3.7.24): Parts of Cloyne have been identified as being at risk of flooding. The areas at risk largely follow the path of the Shanagarry\* River north of the village and are illustrated on the settlement map. Government Guidelines require, and it is an objective of this plan, that future development is avoided in areas indicated at being at risk of flooding. The approach to Flood Risk Management is set out in Chapter 11 Water Management in Volume One of this Plan and in the updated Strategic Flood Risk Assessment (SFRA), October 2021. The updated SFRA should be consulted for any settlement specific comments and recommendations, including any site-specific recommendations made as part of any Justification Tests carried out, prior to any application for development

\*[Note: on catchments.ie the River in the flood zone north of the village is identified as Knocknamadderee whereas the Shanagarry River is a few kilometres to the south east and they are not shown as hydrologically connected on these maps.]

## 5.2. Natural Heritage Designations

- 5.2.1. Cork Harbour SPA Site Code 004030 is approximately 2.5k from the site to the west. The Great Island Channel SAC Site Code 001958 is approximately 3.7km from the site to the northwest. Ballycotton Bay SPA Site Code 004022 is c7km to the south east.

## 5.3. National planning policy

- 5.3.1. **The National Planning Framework - Project Ireland 2040.** This policy framework emphasises ‘making stronger urban places’ and a number of National Policy Objectives support this. NPOs 5, 11, 13, 33 and 35 are relevant and notably NPO 35 seeks to increase density in settlements through infill development and increased building heights among other development formats.
- 5.3.2. **Sustainable Residential Development and Compact Settlement - Guidelines for Planning Authorities** (2024). While encouraging higher density as part of land use efficiency, these Guidelines acknowledge the need to respond to settlement size and contexts such as in cities, large and medium-sized towns and smaller towns and villages. The guidelines provide for greater flexibility in residential design standards such as in the provision of open space, parking (car and cycle), and separation distances.

## 6.0 EIA Screening

- 6.1.1. The proposed development has been subject to preliminary examination for environmental impact assessment (refer to Form 1 and Form 2 in Appendices of this report). Having regard to the characteristics of the proposed development and its location in an urban area where services are provided and likely to be enhanced within the next five years and also noting the location removed from any sensitive locations or features and having regard to the types and characteristics of potential impacts, it is considered that there is no real likelihood of significant effects on the environment. The proposed development, therefore, does not trigger a requirement for environmental impact assessment screening and an EIAR is not therefore required.



## 7.0 The Appeal

### 7.1. Grounds of Appeal

7.1.1. **John Kenneally** has appealed the decision to grant permission on grounds relating to inadequate surface water **drainage** and foul sewer capacity. His grounds are based on

- Impact of development on **flooding** of his farmland which is behind the proposed building site and the breen on his land. It is submitted that storm water flow into his lands and that the drain to the south does not flow to the river to sufficiently drain the lands. This will be exacerbated by the additional loading created by the proposed development there are also concerns about the wider impact of flooding on the water pump in the vicinity and its importance in serving other houses.
- Flowing of sewage from the housing estate onto his lands

7.1.2. **Peter and Inger North** have appealed the decision to grant permission. The appeal includes a letter with the grounds and appended letters of objection which catalogues all the issues stemming from the initial housing application for the development of which the subject site forms a part. Their house and property are to the north of the site and they are frustrated at the piecemeal approach to development of the overall housing development and lack of direct communication and information. Specific concerns relate to:

- Boundary issues with property.
- Principle of two storey rather than original bungalow and impact on overlooking on their property directly north. Seek restriction on rooflights to the north.
- Inadequate sewerage capacity due to treatment plant and experience of refusal of connection in lieu of their septic tank which is submitted to be impacted by drainage issues.
- Inadequate communal open space to cater for the increased density.
- House type inappropriate to demand having regard to demographics and need for bungalows.

- Drainage issues and impact on septic tank – absence of hydrological and hydrological analyses in overall development.
- Environmental contamination
- Standard of development in respect of utilities and services. Details list of issues relating to sewer ballast, breach of building regulations and also regulations in relation to materials, safety and overall site and development management.
- Inadequate archaeological monitoring.
- Inadequate public notices of proposed development.
- Alleged reneging on agreement with the developer.

## **7.2. Applicant Response**

7.2.1. A planning consultant has responded to the issues raised and in the first instance sets out the chronology of planning applications and decisions and also then refers to a masterplan (at pre-application stage) to include 72 additional units as part of the overall landholding and completion of amenities such as open space and creche facility. The concerns and allegations are addressed accordingly:

- Site management has been within acceptable standards and development has been completed to a high standard.
- Discussions are acknowledged to have taken place and issues in relation to boundary and entrance will be honoured including the feasibility of connecting to the wastewater system in lieu of the septic tank. These matters are however substantially outside the scope of the subject four dwellings proposed.
- The matter of flooding impact from the site onto the appellant grounds has not been raised with the applicant nor is it understood given the topography as the appellants' property is higher than the subject site.
- There is agreement in principle with future wastewater connection subject to Irish Water's agreement.
- In terms of flooding issues generally, the site is outside a flood risk zone and there is no substantive evidence of the development causing flooding

- Localised stormwater management within the site has been addressed in more detail in the concurrent case where details of stormwater tank and attenuation were accepted by the PA as measures to manage surface run-off.
- The matter of open space and overall density is more appropriately addressed in the future scheme wherein the exact level of open space will be assessed and subject to third party observations.
- Environmental contamination is considered to be an issue beyond the scope of the subject application. The need for an EIAR is also noted to have been screened out by the PA.
- The statements regarding alleged non-compliance with various regulations and standards are disputed and considered defamatory. It is stated that all development will be subject to building control and is compliant with building regulations.
- The site notices are noted to have been correctly displayed as confirmed in the planning report.

### **7.3. Planning Authority Response**

- No further comments as all relevant issues are considered to have been addressed in technical reports on file.

### **7.4. Observations**

Residents in Lus an Ime raise concerns about alterations to the road layout and impact at the end of The Crescent whereby it would cause disturbances to residences having regard to its quiet character and safe environment in addition to the provision of car parking when needed. There is no objection to the houses.

### **7.5. Further Responses**

None

## **8.0 Assessment**

### **8.1. Scope of issues**

8.1.1. Having read the file and inspected the site I consider the key issues fall under the following headings:

- Principle of development having regard to zoning, density, services and flooding and overall orderly development
- Impact on residential amenity of residents in the Crescent relating to disturbance, boundary treatment
- Impact on residential amenity of dwelling to the north by reason of boundary treatment and overlooking
- Procedural issues,
- Other

## 8.2. Principle of development

8.2.1. The appellants who are established residents in the area challenge the principle of development on grounds of protracted construction works in the completion of the estate as well as the wider issue of overall standard of development and capacity of services.

8.2.2. The site is in zoned land at the centre of a housing development which has been substantially constructed. The development of the subject site would complete this part of the Lus an Ime development along The Court estate road and where it interfaces with The Crescent and would accordingly be consistent with the overall orderly development of the area. Site preparation works have commenced which would appear to be based on the previous permission but appear to have ceased.

8.2.3. While the proposal is for four dwellings it is, in effect, for minor alterations to previously permitted dwellings as part of a cohesive housing development under 18/5534 which permitted eight dwellings in total, four of which have been substantially completed. The subject four dwellings are proposed on the same footprint thereby retaining the building lines. In terms of orderly development, the proposal ties in in form, style, scale and building patterns and in terms of density. The argument to lower the density by either reverting to previously permitted bungalows (prior to the permission for two storey houses) or to provide open space or car parking instead of housing is not supported in the context of residential design guidelines and strategic and local aims to ensure efficient use of zoned and serviced

lands as part of a compact settlement strategy. Balancing these considerations the proposal is appropriate to the scale and context of the area. I consider the principle of 4 houses in urban design terms, in this location and having regard to the planning history and pattern of development, to be generally acceptable in principle.

- 8.2.4. I consider the issue of access to a foul sewer network having regard to the current insufficient capacity at the Cloyne wastewater treatment plant serving the area is the only basis to consider a refusal of permission based on principle. The planning authority sought further information in this regard and in response the applicant confirms that a pre-connection agreement with Uisce Eireann was permitted back in 2020 but the applicant did not provide an updated agreement in respect of the particular houses to which this precisely applies and whether or not it includes the proposed dwellings. In the water services report on the further information submitted in this regard, it is stated that the Uisce Eireann Connection Development Team confirmed in discussion with the PA that the 'the number of connections falling under CD2000161701 has to be agreed with Uisce Eireann Connection Development Team and that the developer is to agree the remaining connections under this agreement prior to construction commencing.' This is carried through into the conditions of a grant of permission as recommended by the Water Services Department and this was retained in the Order. Accordingly, this issue remains outstanding.
- 8.2.5. One appellant party makes the case that on the one hand their septic tank is being impacted by impacts of run-off and it would seem possibly changes in the percolation capacity but on the other hand Uisce Eireann has refused connection agreement due to capacity issues. It does on the face of it seem unfair that existing residents with possibly failing septic tanks within the CDP development area are being refused connection yet new houses are being permitted for construction and new connections, although, compliance with the original dwelling permission is ultimately a matter for the private homeowner.
- 8.2.6. I note in the concurrent case that ultimately the connection agreement for 21 houses was declared to be not taken up by the developer. I also note that the Cloyne WWTP is planned for upgrading in 2027 but there is no substantial evidence of meeting this 2027 deadline or thereabouts. However in view of this timeline guide outstanding connections if needed could be viable within the life of permission for new houses.

Accordingly, in view of the planning history and subject to the nature of conditions required by the planning authority to be complied with in this regard, I consider the principle of permitting 4 houses to be reasonable.

- 8.2.7. With respect to flooding, I note that the site is not in an area designated as a flood risk zone. This does not mean there are no localised drainage issues which are typically managed through suitably designed infrastructure and land management. While the proposal will increase loading on run-off (and other services), the scale is no different from what was previously permitted and for which infrastructure has been provided and which is subject to conditions and compliance with the conditions of permission and non-compliance is matter for enforcement. The subject development will provide an opportunity to further safeguard an overall adequate standard of development. In this regard I note detailed requirements of the technical divisions as carried through in planning conditions. This applies to roads, water supply, estate layout and standards. I note the 'Drainage Layout' drawing submitted with the application shows a future attenuation tank (as the current system, as described in the engineering report states the stormwater system is not attenuated). The applicants' response on 21/8/24 to the appeal refers again to the provision of a stormwater attenuation tank as included as part of the concurrent case and as part of future development and that this is acceptable to the planning authority. I note the matter of drainage is addressed in more detail in the concurrent case which includes a larger surface area (almost 1 hectare) to the general satisfaction of the engineering divisions of the planning authority and that notably the applicant is in discussion with the planning authority to also address drainage in a wider masterplan context. However, while outside the subject site outlined in red, I consider the tank is an integral element on which the proposal relies and its provision should be required as part of the subject development unless a satisfactory means of disposing of storm water can be agreed. I do not otherwise consider flood risk, roads and surface finishes and related issues to constitute reasons to refuse planning permission on principle.
- 8.2.8. From the submissions on file, while there are unresolved issues relating to private arrangements, there is general agreement in principle by the developer to facilitate a connection to the sewer network. A provision in the condition could require the sewer layout to include a connection point up to the boundaries with relevant abutting

properties. This is however, I consider more appropriately dealt with under the requirements of Uisce Eireann and the Water Services Division as part of their connection agreements.

### **8.3. Impact on residential amenity of residents in the Crescent**

- 8.3.1. The residents along the Crescent are concerned about the impact of the alterations to the interface with the cul-de-sac on the environment and amenities presently enjoyed. The applicant is quite clear that no vehicular interconnection is proposed. There is however a requirement for pedestrian interconnection as part of the previous permission and this is reaffirmed as part of the concurrent case (by way of further information) and there is no case made by the applicant to seek to remove this requirement. This matter however is more appropriately addressed in the concurrent case given the site delineation.
- 8.3.2. The alterations in this case consequent on the site delineation simply includes a widening of the end plot and corresponding reduction in a residual area. I do not consider this to be a significant deviation from the original plans as the proposal retains the character as previously permitted. I do not consider impact on amenity on neighbouring properties in the Crescent to constitute grounds for refusal.

### **8.4. Impact on residential amenity of dwelling to the north by reason of boundary treatment and overlooking**

- 8.4.1. The grounds of appeal seek to challenge the principle of two storey house dwellings on the basis of the character and overlooking. The revisions to the elevations are I consider minor and of no material significance in terms of impact or adverse change to visual character of the immediate environs. The ground floor window to the rear is reduced and the bay window to the front has been replaced with a single opening fitted with tripartite glazing in the facade at ground and first floor level while retaining the bay projection in form and footprint. Accordingly, the overall glazing area is reduced from that previously permitted. The planning authority has noted this to be a simpler finish and considered it acceptable and I concur.

- 8.4.2. To minimise overlooking it is requested by the appellant that future alterations to the attic such that would require rooflights to the front (north elevation) be prohibited. I note however that the proposed dwelling facades are set back in the order of 19m from the boundary with the established dwelling to the north and at a point where there is mature vegetation which presently screens the existing dwelling. In terms of overlooking, where ordinarily 22m is a minimum distance guide for separation between directly opposing windows and a standard that has been relaxed subject to design in the most recent guidance, I do not consider overlooking to be a reasonable basis to restrict the development.
- 8.4.3. While I note a proposal for a boundary treatment on the north side of The Court, this is not part of the subject site but is however part of the concurrent case which relates to the road layout where it abuts the boundary. I therefore do not consider boundary wall treatment relating to the appellants' property which is outside the subject site to be directly within the scope of this application

#### **8.5. Procedural issues**

- 8.5.1. The validity of the public notices is questioned. The planning authority has confirmed that the site notices were in place and accepted to comply substantially with the Planning and Development Regulations. Ultimately the appellant has had the opportunity to make observations and I consider there is insufficient evidence for the Board to refuse permission on the basis of an invalid application.

#### **8.6. Other Matters**

- 8.6.1. Conditions: Outstanding issues in relation to services and completion of the housing development to date as permitted are raised in the context of seeking completion to an acceptable standard. The applicant has referred to a masterplan and further development of some 72 houses which addresses open space and crèche facilities in the provision of amenities over the longer term. As the proposal is, in effect, renewing permission for similar houses at the same density, I do not consider conditions are necessary for open space. In respect of run-off management, there is provision for an attenuation tank to manage surface water as also shown in the



concurrent case. There is no guarantee that this case or later phase will be carried out and in the interim the developer is required to comply with conditions of permission for development carried out to date. This is a matter for enforcement.

- 8.6.2. In respect of archaeological issues, I note this was addressed in the original permission and the subject development relates to disturbed ground on foot of previous permissions. I note in any event that the archaeology report confirms that there are no archaeological remains on site nor is there considered to be any archaeological impediment to developing the site and that no further archaeological intervention is recommended. I do not consider conditions in this regard are necessary given the footprint of the site.
- 8.6.3. The permission in 2018 pertaining to the 8 houses including the subject site required the following details, in the table below, to be subject of specific conditions which are addressed in a modified, more detailed and updated format in the current case by the planning authority. Notably it includes provision for more specifications of standards and maintenance and also requires a Bond as security for completion of works to its satisfaction. There are very detailed lighting requirements. Similarly, the Estates report sets out 6 conditions requiring overall standards to be met in relation to layout and services management of open space, requirements of security/bond for satisfactory completion and road specification, off street parking and maintained and management of the common area in the overall estate.
- 8.6.4. It is important that new development ties in with the existing development while adhering to the latest reasonable standards. I consider these requirements can be met by conditions requiring PA standards to be complied with and agreed where appropriate. This can be done in a more rationalised approach to the attachment and wording of conditions in the event of a grant of permission. For example, one condition for general public lighting is I consider sufficient to provide for the planning authority to ensure its standards are met.
- 8.7. I consider the inclusion of permeable surface in the extended garden area to be appropriate for sustainable urban drainage.
- 8.8. In view of the findings of the archaeological assessment and also noting the site works permitted on site and the PA reports, I do not considered an archaeological condition to be of any material benefit and is not warranted.

**Table Conditions: A comparison with PA ref 18/5534**

<b>2018</b>	<b>PA conditions for subject case</b>
<b>Surface water:</b> to not flow onto the public road and details to be submitted (C3 and 4).	Addressed in other conditions in relation to estate road construction listed below. <u>Comment:</u> In addition to tying into this I consider the use of a permeable surface in the curtilage of the dwelling noting the extended parking area in the end plot incorporating a previously designated landscape area.
Supply of <b>potable water</b> C5 and C9	C4
Construction management (C 6 and 7)	
16 <b>Car parking</b> spaces overall.	Parking is required for 2 spaces C10
Adequate <b>water and waste water facilities/</b> agreement with Irish Water (C9 and 10)	In relation to Uisce Eireann/Irish Water connection, condition 4 requires a full connection agreement prior to commencement of development. Connections are also required to comply with the PA requirements generally in C5, 6 and 7. separate conditions for construction detail and maintenance of road and public realm areas and overall estate issues are required in accordance with a range of standards such as in C6, 7, 8 and 9 <u>Comment:</u> These should be upheld in a rationalised format.
<b>Public lighting</b> -very detailed specification) (C11)	C 11, 12 and 13 all specify lighting. <u>Comment:</u> C 11 should be sufficient subject to agreement.
	The developer is required to be responsible for maintenance of all roads and public realm spaces and services in the estate until taken in charge.

	The layout and services are requirements to comply with the 1998 DoELG standards with provision to resolving conflicts in conditions. Road construction is specified <u>Comment:</u> Not entirely relevant given the site delineation.
<b>S.48</b> contribution required in C2	C2 -S.48 contribution and C3 requires Bond <u>Comment:</u> These conditions should be upheld

## 9.0 AA Screening

9.1. The site is not located in or adjacent to any European site. The only connection is via the Wastewater Treatment Plant in Cloyne which discharges by license to waters in the order of 2km upstream of Cork Harbour. As permission is conditional on a connection agreement with Uisce Eireann and capacity of the plant, the issue of pollution is already regulated and screening for indirect impacts via the treatment plant is I consider outside the scope of this application. Otherwise, having regard to the nature and scale of the development proposed and to the nature of the receiving environment, an urban and serviced location remote from any European site and the absence of any direct or indirect pathway between the appeal site and any European site, no appropriate assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

## 10.0 Recommendation

I recommend a decision to grant permission subject conditions based on the following reasons and considerations.

## 11.0 Reasons and Considerations

Having regard to national planning policy, including the Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities (2024), the planning history and the pattern of development within an existing housing

development within the development area of Cloyne, a designated Key Village in the Cork County Development Plan 2022-2028, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities of property in the vicinity and would not be prejudicial to public health, and would contribute to the orderly development of the immediate environs and would therefore, be in accordance with the proper planning and sustainable development of the area.

## 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 plans and particulars received by the planning authority on 30th May 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.</p> <p><b>Reason:</b> In the interest of clarity</p>
2	<p>Prior to the commencement of development, the developer shall enter into a Connection Agreement with Uisce Éireann (Irish Water) to provide for service connections to the public water supply and wastewater collection network. No development shall commence until details of this agreement together with connection and plot specific details are submitted to the satisfaction of the planning authority for its prior written agreement.</p> <p>No houses shall be constructed where connections of such will breach the capacity of the Wastewater Treatment Plant for Cloyne.</p> <p><b>Reason:</b> In the interest of clarity and the interest of public health and to ensure adequate water/wastewater facilities.</p>

3	<p>Water supply and drainage arrangements, including the 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 of the provision, siting, design and capacity of the surface water attenuation tank as shown in details submitted on 30<sup>th</sup> May 2024 together with details for the disposal of surface water from the site for the prior written agreement of the planning authority.</p> <p><b>Reason:</b> In the interest of public health</p>
4	<p>(a) All of the in-curtilage car parking spaces serving the residential units shall not exceed two spaces per unit and shall be provided with electric connections to the exterior of the houses to allow for the provision of a future electric vehicle charging point.</p> <p>(b) The front/side gardens shall otherwise be maintained with permeable surfaces. In this regard revised details for the site layout and landscaping of end plot no. 28 shall be submitted for written agreement with the planning authority prior to commencement of development.</p> <p><b>Reason:</b> In the interest of sustainable transportation and sustainable drainage.</p>
5	<p>The footpaths shall be constructed and dished in accordance with the requirements of the planning authority.</p> <p><b>Reason:</b> In the interest of pedestrian safety.</p>
6	<p>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.</p> <p><b>Reason:</b> In the interest of amenity and public safety.</p>

7	<p>Site development and building works shall be carried out between the hours of 0700 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 on Saturdays and not at all on Sundays and public holidays. Deviation from these times shall only be allowed in exceptional circumstances where prior written agreement has been received from the planning authority.</p> <p><b>Reason:</b> To safeguard the amenity of property in the vicinity</p>
8	<p>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, site housekeeping, emergency response planning, site environmental policy, and project roles and responsibilities.</p> <p><b>Reason:</b> In the interest to public safety and residential amenity.</p>
9	<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><b>Reason:</b> To ensure the satisfactory completion and maintenance of the development until taken in charge.</p>

10	<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><b>Reason:</b> 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>
----	--

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

---

Suzanne Kehely

Senior Planning Inspector

11<sup>th</sup> April 2025

# Form 1

## EIA Pre-Screening

<b>An Bord Pleanála Case Reference</b>		ABP 320126		
<b>Proposed Development Summary</b>		4 dwellings and associated site works		
<b>Development Address</b>		Lus an Ime, Cloyne, Co. Cork		
<b>1. Does the proposed development come within the definition of a 'project' for the purposes of EIA?</b> (that is involving construction works, demolition, or interventions in the natural surroundings)			<b>Yes</b>	<b>x</b>
			<b>No</b>	
<b>2. Is the proposed development of a CLASS specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended)?</b>				
<b>Yes</b>	<b>x</b>	Class 10	Proceed to Q3.	
<b>No</b>				
<b>3. Is the proposed development of a CLASS specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) OR a prescribed type of proposed road development under Article 8 of Roads Regulations 1994, AND does it meet/exceed the thresholds?</b>				
<b>Yes -the proposed development is of a Class but is sub-threshold.</b>	<b>x</b>	Class 10 (b)(i) - threshold >500 dwellings. The proposed development for 4 houses on a site of 0.1098 hectares in an urban area is below this by a significant magnitude.	Preliminary examination required (Form 2)	

<b>4. Has Schedule 7A information been submitted?</b>		
<b>No</b>	<b>x</b>	<b>Pre-screening determination conclusion remains as above (Q1 to Q3)</b>

Inspector: \_\_\_\_\_ Date: \_\_\_\_\_



## Form 2

### EIA Preliminary Examination

<b>An Bord Pleanála Case Reference</b>	<b>ABP 320126</b>
<b>Proposed Development Summary</b>	4 dwellings and associated site works
<b>Development Address</b>	Lus an Ime, Cloyne, Co. Cork
<b>This preliminary examination should be read with, and in the light of, the rest of the Inspector's Report attached herewith.</b>	
<b>Characteristics of proposed development</b> (In particular, the size, design, cumulation with existing/proposed development, nature of demolition works, use of natural resources, production of waste, pollution and nuisance, risk of accidents/disasters and to human health).	The proposal is for the construction of two pairs of semi-detached dwelling houses and associated site works in an infill site within an existing housing development. It is consistent with the adjacent house types. The development site has access to connections for public water supply and wastewater disposal as regulated by Uisce Eireann and likely to be provided within the next 5 years. There will be a modest increase in loading. Subject to compliance with the agreements in place and future agreements which restrict connections subject to capacity, this will not result in pollution. Disposal of storm water to a proposed attenuation tank is not likely to result in significant pollution, details of which are subject to further agreement with the planning authority. The proposed development will not result in the production of significant waste, emissions, or pollutants. This is a relatively small development in this urban context. There is no real likelihood of significant cumulative effects with other permitted or related developments such as the concurrent case within the same housing development subject to compliance with conditions.

<b>Location of development</b> (The environmental sensitivity of geographical areas likely to be affected by the development in particular existing and approved land use, abundance/capacity of natural resources, absorption capacity of natural environment e.g. wetland, coastal zones, nature reserves, European sites, densely populated areas, landscapes, sites of historic, cultural or archaeological significance).	The site is in a built-up area and is of an urban infill nature. The site is not designated as having particular environmental sensitivities nor are there significant sensitivities in the immediate environs. The lower level farmlands surrounding the site have by third party account experienced localised flooding and the surface water issues are addressed by the relevant engineering divisions for the planning authority.		
<b>Types and characteristics of potential impacts</b> (Likely significant effects on environmental parameters, magnitude and spatial extent, nature of impact, transboundary, intensity and complexity, duration, cumulative effects and opportunities for mitigation).	While there are issues raised in the appeal concerning localised flooding and capacity of the wastewater treatment plan, I do not consider them to be of a significant magnitude to warrant an EIA given that such matters can be addressed under normal planning considerations and wastewater issues are also regulated by Uisce Eireann which operates within the limitations of its license.		
<b>Conclusion</b>			
<b>Likelihood of Significant Effects</b>	<b>Conclusion in respect of EIA</b>  EIA is not required.		x
<b>There is no real likelihood of significant effects on the environment.</b>			
<del>There is significant and realistic doubt regarding the likelihood of significant effects on the environment.</del>			
<del>There is a real likelihood of significant effects on the environment.</del>			

Inspector:

Date:

DP/ADP: \_\_\_\_\_

Date: \_\_\_\_\_

(only where Schedule 7A information or EIAR required)