



An
Bord
Pleanála

Board Direction
BD-017225-24
ABP-319654-24

The submissions on this file and the Inspector's report were considered at a Board meeting held on 12/08/2024.

The Board decided to grant permission generally in accordance with the Inspector's recommendation, for the following reasons and considerations, and subject to the following conditions.

Reasons and Considerations

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

- (a) the nature, scale, and extent of the proposed development and the pattern of existing development in the area,
- (b) the provisions of the Project Ireland 2040 National Planning Framework,
- (c) the provisions of Sustainable Residential Development and Compact Settlement Guidelines for Planning Authorities (January 2024),
- (d) the provisions of the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities (July 2023),
- (e) the provisions of the Regional Spatial and Economic Strategy for the Southern Region (2020),
- (f) the provisions of the Cork County Development Plan 2022-2028 including the 'Residential' zoning,
- (g) the documentation submitted with the planning application, such as the Environmental Impact Assessment (EIA) Screening Report and the Appropriate Assessment – Stage 1 Screening Report, plus the first and third party grounds of appeal and the responses to same,

- (h) the submissions and observations received on file including from the local authority, prescribed bodies, and third parties,
- (i) the likely consequences for the environment and the proper planning and sustainable development of the area in which it is proposed to carry out the proposed development and the likely significant effects on European sites,
- (j) the planning history of the site and adjoining areas, and,
- (k) the report of the Planning Inspector.

Appropriate Assessment Screening

The Board completed an Appropriate Assessment screening exercise in relation to the potential effects of the proposed development on European sites, taking into account the nature and scale of the proposed development on serviced lands, the nature of the receiving environment which comprises a greenfield site at the edge of an urban area, the distances to the nearest European sites, the hydrological pathway considerations, the submissions on file, the information submitted as part of the applicant's Appropriate Assessment – Stage 1 Screening Report, and the Inspector's report.

In completing the screening exercise, the Board agreed with and adopted the report of the Inspector and that, by itself or in combination with other development, plans and projects in the vicinity, the proposed development would not be likely to have a significant effect on any European site in view of the conservation objectives of such sites, and that a Stage 2 Appropriate Assessment is not, therefore, required.

Environmental Impact Assessment Screening

The Board completed an environmental impact assessment screening of the proposed development and considered that the Environmental Impact Assessment (EIA) Screening Report submitted by the applicant, which contains information set out in Schedule 7A to the Planning & Development Regulations, 2001 (as amended), identifies and describes adequately the effects of the proposed development on the environment. Having regard to:

- (a) the nature and scale of the proposed development, which is below the thresholds in respect of Paragraphs 10 (b)(i) and (iv) of Part 2 of Schedule 5 of the Planning & Development Regulations, 2001 (as amended),

(b) the location of the site on land zoned 'Residential' in the Cork County Development Plan 2022- 2028,

(c) the existing use of the site and the pattern of development in the vicinity,

(d) the availability of public water and foul services to serve the proposed development,

(e) the criteria set out in Schedule 7 of the Planning & Development Regulations, 2001 (as amended) and the content of the applicant's Environmental Impact Assessment (EIA) Screening Report, and,

(f) the measures proposed by the applicant envisaged to avoid or prevent what might otherwise be significant effects on the environment, including measures identified in the Construction Environmental Management Plan,

it is considered that the proposed development would not be likely to have significant effects on the environment and that the preparation and submission of an Environmental Impact Assessment Report would not, therefore, be required.

Proper Planning and Sustainable Development

The Board considered, in a 2:1 majority decision, that subject to compliance with the conditions set out below, the proposed development would be consistent with the zoning and other provisions of the Cork County Development Plan 2022-2028, would make efficient use of an appropriately zoned greenfield site on the urban edge of Midleton, would positively contribute to an increase in housing stock, would be acceptable in terms of urban design, layout and building height, would be acceptable in terms of pedestrian and traffic safety, and would provide an acceptable form of residential amenity for future occupants. The proposed development would not seriously injure the residential or visual amenities of the area. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further

plans and particulars received by the planning authority on 15th March 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 local authority, the developer shall agree such details in writing with the local authority prior to commencement of development or as otherwise indicated and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. This permission authorises 268 no. residential units as per the site layout plan received by the planning authority on 15th March 2024.

Reason: In the interest of clarity.

3. The proposed development shall be amended as follows:
 - (a) revised floor plan and elevations drawings shall be prepared for house types A3/A4 i.e. house numbers 214, 229, 234, 246, 247, 250, and 251, to provide a more active dual frontage appearance to adjoining public spaces.
 - (b) two-bedroom duplex apartment types N1/N2 shall have its storage provision increased to a minimum of 6sqm.

Revised drawings showing compliance with these requirements shall be submitted to and agreed in writing with the planning authority prior to commencement of development or as otherwise agreed in writing.

Reason: In the interests of visual and residential amenity and the proper planning and sustainable development of the area.

4. The mitigation measures identified and contained within the Construction Environmental Management Plan, Ecological Impact Assessment and other plans and particulars submitted with the application shall be implemented in full, except where otherwise required by conditions attached to this permission.

Reason: In the interests of clarity, and of protecting the environment and public health.

5. Prior to commencement of development the developer shall submit, for the written agreement of the planning authority:
- (a) the detailed design of the proposed upgrading works along the local road L7630 which shall be generally as indicated on the documentation received by the planning authority,
 - (b) the detailed design of all proposed junctions, both with the local road L7630, and internal junctions,
 - (c) the detailed design of all pedestrian crossings, both across the local road L7630, and across internal circulation roads,
 - (d) the detailed design of all traffic calming proposals,
 - (e) the detailed design of the permeability paths to Blossom Hill,
 - (f) the finishes of all walls and boundaries facing public areas.

Reason: In the interests of the safety of pedestrian, cyclist, and traffic safety and the proper planning and sustainable development of the area.

6. (a) The developer shall enter into water and/or waste water connection agreement(s) with Uisce Éireann prior to commencement of development.
- (b) Prior to the commencement of any development the developer shall submit a diversion enquiry to Uisce Éireann. Any alteration required to the proposed development as a result of same shall be submitted to the planning authority for agreement in writing prior to the commencement of any development on site.

Reason: In the interest of public health.

7. (a) A comprehensive boundary treatment and landscaping scheme shall be submitted to and agreed in writing with the planning authority prior to commencement of development. The scheme shall include the revised proposals along the southern and eastern boundaries of the Phase 1 area received by the planning authority as part of the further information response as well as the following:
- i. details of all proposed hard surface finishes,
 - ii. proposed locations of trees and other landscape planting, including details of proposed species and settings,

- iii. details of proposed street furniture including bollards, lighting fixtures and seating,
- iv. details of proposed boundary treatments at the perimeter of the site, including heights, materials, and finishes. The green palisade fence along the southern site boundary shall be extended the entire width of the southern boundary,
- v. layout and finishes of the play areas.

The boundary treatment and landscaping shall be carried out in accordance with the agreed scheme.

- (b) The existing green palisade fence along much of the southern site boundary shall be extended to the entire width of the southern boundary prior to the occupation of any unit in phase 1.
- (c) The landscaping along the eastern and southern boundaries of the phase 1 area shall be provided in full prior to the occupation of any unit in phase 1.

Reason: In the interest of residential and visual amenity.

- 8. Details of the materials, colours, and textures of all the external finishes to the proposed development shall be as submitted with the application, unless otherwise agreed in writing with the planning authority prior to commencement of development. Roof tiles or slate shall be dark grey/blue/black.

Reason: In the interest of visual amenity.

- 9. (a) Prior to commencement of development the developer shall submit for the written agreement of the planning authority, drawings that show the extent of all proposed retaining structures. The structures that are to be included in, or that would impact on, any area to be taken in charge by Cork County Council (at the Council's discretion) shall be separately identified on the drawings. For each retaining structure a construction layout plan/drawing showing the extent of the entire retaining structure proposed and any ancillary structures, along with cross section detail, shall be submitted. The site investigation details and geotechnical assumptions on which the design has been based shall be

submitted and descriptions, lengths, and retained dimensions of each structure shall be shown.

(b) Prior to commencement of development the developer shall submit, for the written approval of the planning authority, a certificate from a suitably qualified engineer confirming:

- i. that the retaining structures have been designed in accordance with the relevant and most current design standards,
- ii. that the structures have a 120-year design life,
- iii. the design surcharge and live loadings (kN/m²),
- iv. that the designs have been correctly transferred to the contract/construction drawings.

(a) Within six months of completion of construction, or as otherwise agreed in writing with the planning authority, the developer shall submit, for all retaining structures:

- i. structural design calculations with full reference to the design standards used, including any amendments during construction,
- ii. as-built drawings and relevant details for all retaining structures, including details showing ground conditions encountered during construction,
- iii. a letter of certification shall be provided by the design engineer responsible, confirming that the structures have been constructed as per the design and as per the as-built drawings/details. Alternatively, this certification shall be provided by a suitably qualified structural design engineer,
- iv. other data that would be available for preparation of a safety file for the retaining structures in accordance with the current Safety, Health and Welfare at Work (Construction) Regulations.

Reason: In the interest of orderly development.

10. The development shall be constructed in accordance with the phasing plan shown on drawing no. 22/6732-P-1104 Rev. B, as submitted with the application.

Reason: In the interest of orderly development.

11. (a) Prior to the commencement of phase 2 of the residential units hereby permitted, the permitted childcare unit and communal unit shall be fully fitted out and suitable for immediate occupation and operation.

(b) Details of all childcare and communal unit signage and hours of operation shall be submitted to, and agreed in writing with, the planning authority prior to operation of any of these units.

Reason: In the interests of clarity, the orderly development of the site, and the visual amenities of the area.

12. Proposals for a development name and numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all such names and numbering shall be provided in accordance with the agreed scheme.

Reason: In the interest of urban legibility.

13. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development.

Reason: In the interests of visual and residential amenity.

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

Reason: In the interests of residential amenity and public safety.

15. The internal road network serving the proposed development, including turning bays, junctions with the public road, parking areas, footpaths and kerbs, shared surfaces, raised tables, signage etc. shall be in accordance with the detailed construction standards and requirements of the local authority for such works and with the relevant provisions of the Design Manual for Urban

Roads and Streets (DMURS). In default of agreement, the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

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

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

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

17. (a) The car parking facilities hereby permitted shall be reserved solely to serve the proposed development. All car parking spaces shall be assigned for the residential and childcare/communal units, and shall be reserved solely for those purposes.

(b) A minimum of 10% of communal/grouped car parking spaces shall be provided with functioning electric vehicle charging stations or points, and ducting shall be provided for all remaining car parking spaces, facilitating the installation of electric vehicle charging points or stations at a later date. Where proposals relating to the installation of electric vehicle ducting and charging stations or points have not been submitted with the application, in accordance with the above noted requirements, such proposals shall be submitted and agreed in writing with the planning authority prior to the occupation of the development.

(c) Prior to the occupation of the development a Parking Management Plan shall be prepared for the development and submitted to and agreed in writing with the planning authority.

(d) Cycle parking and storage shall comply with specific planning policy requirement (SPPR) 4 of the Sustainable Residential Development and Compact Settlement Guidelines for Planning Authorities (2024). All cycle parking details shall be submitted to and agreed in writing with the planning authority and shall be in situ prior to occupation of each phase of the development.

Reason: To ensure that adequate car and bicycle parking facilities are available to serve the proposed development.

18. A plan containing details for the management of waste (and, in particular, recyclable materials) within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials and for the ongoing operation of these facilities for each house plot and apartment unit, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the waste shall be managed in accordance with the agreed plan.

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

19. (a) The communal open spaces, including hard and soft landscaping, car parking areas and access ways, communal refuse storage, and all areas not intended to be taken in charge by the local authority, shall be maintained by a legally constituted management company.

(b) Details of the management company contract, and drawings/particulars describing the parts of the development for which the company would have responsibility, shall be submitted to, and agreed in writing with, the planning authority before any of the residential units are made available for occupation.

Reason: To provide for the satisfactory future maintenance of this development in the interest of residential amenity.

20. Prior to commencement of development, a Resource Waste Management Plan (RWMP) as set out in the EPA's Best Practice Guidelines for the Preparation of Resource and Waste Management Plans for Construction and Demolition Projects (2021) shall be prepared and submitted to the planning authority for written agreement. The RWMP shall include specific proposals as to how the RWMP will be measured and monitored for effectiveness. All records (including for waste and all resources) pursuant to the agreed RWMP shall be made available for inspection at the site office at all times.

Reason: In the interest of reducing waste and encouraging recycling.

21. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

This plan shall provide details of intended construction practice for the development, including:

- (a) Location of the site and materials compound(s) including area(s) identified for the storage of construction refuse;
- (b) Location of areas for construction site offices and staff facilities;
- (c) Details of site security fencing and hoardings;
- (d) Details of on-site car parking facilities for site workers during the course of construction;
- (e) Details of the timing and routing of construction traffic to and from the construction site and associated directional signage, to include proposals to facilitate the delivery of abnormal loads to the site;
- (f) Measures to obviate queuing of construction traffic on the adjoining road network;
- (g) Measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network;
- (h) Alternative arrangements to be put in place for pedestrians and vehicles in the case of the closure of any public road or footpath during the course of site development works;
- (i) Details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels;
- (j) Containment of all construction-related fuel and oil within specially constructed bunds to ensure that fuel spillages are fully contained. Such bunds shall be roofed to exclude rainwater;
- (k) Off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil;
- (l) Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains;

A record of daily checks that the works are being undertaken in accordance with the Construction Management Plan shall be kept for inspection by the planning authority;

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

22. Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Fridays inclusive, 0800 to 1400 on Saturdays, and not at all on Sundays and public holidays. Deviation from

these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: In order to safeguard the residential amenities of property in the vicinity.

23. Prior to commencement of development, the applicant or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the provision of housing in accordance with the requirements of section 94(4) and section 96(2) and (3) (Part V) of the Planning and Development Act, 2000 (as amended), unless an exemption certificate shall have been applied for and been granted under section 97 of the Act, as amended. Where such an agreement is not reached within eight weeks from the date of this order, the matter in dispute (other than a matter to which section 96(7) applies) may be referred by the planning authority or any other prospective party to the agreement to An Bord Pleanála for determination.

Reason: To comply with the requirements of Part V of the Planning and Development Act, 2000 (as amended), and of the housing strategy in the development plan of the area.

24. (a) 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 & 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.
- (b) An agreement pursuant to Section 47 shall be applicable for the period of duration of the planning permission, except where after not less than two years from the date of completion of each specified housing unit, it is demonstrated to the satisfaction of the planning authority that it has not been possible to transact each specified house unit or duplex for use by individual

purchasers and/or to those eligible for the occupation of social and/or affordable housing, including cost rental housing.

(c) The determination of the planning authority as required in (b) shall be subject to receipt by the planning and housing authority of satisfactory documentary evidence from the applicant or any person with an interest in the land regarding the sales and marketing of the specified housing units, in which case the planning authority shall confirm in writing to the applicant or any person with an interest in the land that the Section 47 agreement has been terminated and that the requirement of this planning condition has been discharged in respect of each specified housing unit.

Reason: To restrict new housing development to use by persons of a particular class or description in order to ensure an adequate choice and supply of housing, including affordable housing, in the common good.

25. 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 planning authority to apply such security or part thereof to the satisfactory completion or maintenance of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

Reason: To ensure the satisfactory completion and maintenance of the development until taken in charge.

26. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to

commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

27. The developer shall pay to the planning authority a financial contribution in respect of the Cobh/Midleton – Blarney Suburban Rail Project in accordance with the terms of the Supplementary Development Contribution Scheme made by the planning authority under Section 49 of the Planning and Development Act, 2000 (as amended). The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act, 2000 (as amended), that a condition requiring a contribution in accordance with the Supplementary Development Contribution Scheme made under Section 49 of the Act be applied to the permission.

Note:

The Board, while noting the recommendation of the Inspector to remove the most northerly vehicular access point to the proposed development, considered that there were no planning or traffic issues arising from inclusion of this entrance in the proposed development and therefore, determined that its removal was not warranted in this specific instance. The Board also agreed with the Inspector that the four separate elements of the proposed special contribution condition relating to traffic signalling, footpath, cycleway, and Northern Relief Road, as attached by the planning authority, did not meet the criteria as set out under section 48 (2)(c) of the Planning and Development Act, as amended, and therefore a special contribution condition should not be attached in this instance.

Board Member

Martina Hennessy

Date: 13/08/2024