



An  
Bord  
Pleanála

## Board Direction

**BD-018771-25**

**ABP-320810-24**

The submissions on this file and the Inspector's report were considered at a Board meeting held on 29/01/2025.

The Board decided, by majority decision 3:1, to make a split decision, to grant permission for Phase 1 and refuse permission for Phase 2, as indicated hereunder.

In coming to its decision, the Board noted the planning authority's reasons for refusal, but did not agree with the authority that the proposed development constituted a material contravention of the Cork County Development Plan 2022-2028 and therefore the Board did not consider that the provisions of section 37(2) of the Planning & Development Act 2000, as amended, applied in this instance.

In deciding not to accept the Inspector's recommendation to grant permission for the entire proposed development, the Board considered that the layout of proposed Phase 2 was substandard as indicated under 'Reason and Consideration (2)' hereunder. The Board did not consider it appropriate to address the matter by way of condition (which would impact on the overall density) and considered a refusal of permission for Phase 2 would allow for a possible reconsideration of the layout of Phase 2 at some future point that would provide for a high-quality residential environment.

(Direction to issue with Order.)

### **Split Decision**

- (1) grant permission (subject to conditions) for Phase 1, that being residential units numbers 1-71 inclusive, and all associated site development works for this Phase 1 element of the proposed development as delineated in drawing titled 'Site Layout Plan Phasing Plan' (drawing number 23-6966-P-1103) received by the planning authority on the 28<sup>th</sup> day of June 2024.

for the reasons and considerations marked (1) under and subject to the conditions set out below, and

- (2) refuse permission for Phase 2, that being residential units numbers 72-95 inclusive, and all associated site development works for this Phase 2 element of the proposed development as delineated in drawing titled 'Site Layout Plan Phasing Plan' (drawing number 23-6966-P-1103) received by the planning authority on the 28<sup>th</sup> day of June 2024.

for the reasons and considerations marked (2) under.

### **Reason and Considerations (1)**

Having regard to the nature and scale of the proposed development, the location of the application site in relation to Bandon Town Centre and the under construction residential development adjoining to the west, and the policies and objectives of the Cork County Development Plan 2022-2028, it is considered that subject to compliance with the conditions set out below, Phase 1 of the proposed development would be acceptable in terms of density, design and visual impact, would provide an appropriate transport strategy for the site including provision for pedestrian and cycling infrastructure and would provide an appropriate level of amenity for future residents. 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 except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

**Reason:** In the interest of clarity.

2. This grant of permission is for Phase 1 only, being residential units numbers 1-71 inclusive and associated site development works, as delineated in drawing titled 'Site Layout Plan Phasing Plan' (drawing number 23-6966-P-1103) received by the planning authority on the 28<sup>th</sup> day of June 2024. Phase 2 as indicated in said drawing is not permitted pursuant to this Order. The area of the application site indicated as Phase 2 shall be dedicated as communal amenity space (unless permission is granted for development at some future stage).

**Reason:** In the interest of clarity.

3. The site shall be landscaped in accordance with a comprehensive scheme of landscaping, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This scheme shall include the following:

(a) A plan to scale of not less than 1:500 showing –

- (i) existing trees, hedgerows specifying which are proposed for retention as features of the site landscaping,



- (ii) the measures to be put in place for the protection of these landscape features during the construction period,
  - (iii) the species, variety, number, size and locations of all proposed trees and shrubs which shall comprise predominantly native species such as mountain ash, birch, willow, sycamore, pine, oak, hawthorn, holly, hazel, beech or alder,
  - (iv) details of boundary treatments at all retaining wall structures within the site,
  - (v) details of roadside/street planting, and
  - (vi) hard landscaping works, specifying surfacing materials, furniture and finished levels.
- (b) Specifications for mounding, levelling, cultivation and other operations associated with plant and grass establishment.
- (c) A timescale for implementation including details of phasing.

All planting shall be adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development or until the development is taken in charge by the local authority, whichever is the sooner, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

**Reason:** In the interest of residential and visual amenity.

4. The access from the public road and internal road and vehicular circulation network serving the proposed development, including turning bays, parking

areas, footpaths and kerbs shall be in accordance with the detailed construction standards of the planning authority for such works and design standards outlined in the Design Manual for Urban Roads and Streets (DMURS). The applicant shall be responsible for ensuring any actions/recommendations arising from the road safety audit for Stage 1 and Stage 2 are agreed and 'closed out' to the satisfaction of the road safety auditor for their sign-off of same.

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

5. (a) Prior to the commencement of any house 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), pursuant to Section 47 of the Planning and Development Act 2000, as amended, that restricts all houses 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 or duplex unit 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 residential units, in which case the planning authority shall confirm in

writing to the developer 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.

6. Details of the materials, colours and textures of all the external finishes to the proposed development shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interest of visual amenity.

7. Prior to the commencement of development, the developer or any agent acting on its behalf, shall prepare a Resource Waste Management Plan (RWMP) as set out in the EPA's Best Practice Guidelines for the Preparation of Resource and Waste Management Plans for Construction and Demolition Projects (2021) including demonstration of proposals to adhere to best practice and protocols. The RWMP shall include specific proposals as to how the RWMP will be measured and monitored for effectiveness; these details shall be placed on the file and retained as part of the public record. The RWMP must be submitted to the planning authority for written agreement prior to the commencement of development. All records (including for waste and all resources) pursuant to the agreed RWMP shall be made available for inspection at the site office at all times.

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

8. The areas of public open space shown on the lodged plans shall be reserved for such use. These areas shall be contoured, soiled, seeded, and



landscaped in accordance with the landscaping scheme submitted to and agreed with the planning authority. This work shall be completed before any of the dwellings are made available for occupation unless otherwise agreed in writing with the planning authority and shall be maintained as public open space by the developer until taken in charge by the local authority.

**Reason:** In order to ensure the satisfactory development of the public open space areas, and their continued use for this purpose.

9. Provision shall be made for a signalised cycle crossing within the development. Details of such provision, including construction, finishes and demarcation, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The cycleway shall be provided in accordance with the agreed details prior to first occupation of units and shall be consistent with the provisions of the Cycle Design Manual 2023.

**Reason:** In the interest of sustainable transportation and safety.

10. 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 unit shall be submitted to, and agreed in writing with, the planning authority not later than six months from the date of commencement of the 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.

11. Water supply and 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 interest of public health.

12. Prior to the commencement of development, the developer shall enter into a Connection Agreement (s) with Uisce Éireann (Irish Water) to provide for a service connection(s) to the public water supply and/or wastewater collection network.

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

13. Public lighting shall be provided in accordance with a final scheme to reflect the indicative details in the submitted lighting design report, 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 residential unit.

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

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

**Reason:** In the interests of visual and residential amenity.

15. Proposals for an estate/street name, house numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all



estate and street signs, and house numbers, shall be provided in accordance with the agreed scheme. The proposed name(s) shall be based on local historical or topographical features, or other alternatives acceptable to the planning authority. No advertisements/marketing signage relating to the name(s) of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name(s).

**Reason:** In the interest of urban legibility and to ensure the use of locally appropriate placenames for new residential areas.

16. The management and maintenance of the proposed development following its completion shall be the responsibility of a legally constituted management company, or by the local authority in the event of the development being taken in charge. Detailed proposals in this regard shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** To ensure the satisfactory completion and maintenance of this development.

17. The construction of the development shall be managed in accordance with a final Construction and Environmental Management Plan (CEMP), which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of the intended construction practice for the proposed development, including measures for the protection of existing residential development, traffic management during the construction phase, noise and dust management measures and off-site disposal of construction/demolition waste.

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

18. Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Fridays inclusive, between the hours of

0700 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.

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

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

20. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion and maintenance until taken in charge by the local authority of roads, footpaths, watermains, drains, public open space and other services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion or

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

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

21. 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.

### **Reason and Considerations (2)**

Having regard to residential units numbers 80-86 inclusive backing onto proposed 'amenity space 3' and also having regard to the location and layout of 'amenity space 2' to the side of residential unit no. 72 and to the rear of possible future



residential development to the east, as indicated in drawing titled 'Site Layout Plan Phasing Plan' (drawing number 23-6966-P-1103) received by the planning authority on the 28<sup>th</sup> day of June 2024, it is considered that Phase 2 of the proposed development would lead to a substandard form of layout, would fail to provide a high-quality residential environment for future occupiers and would detract from the visual amenities of the development. Phase 2 of the proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

**Board Member:**

A handwritten signature in blue ink, appearing to read 'Tom Rabbette', written over a horizontal line.

Tom Rabbette

**Date:** 29/01/2025