

An  
Coimisiún  
Pleanála

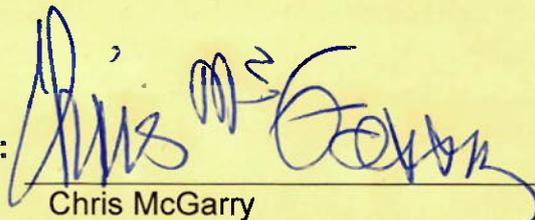
**Direction**  
**CD-022045-26**  
**ACP-323904-25**

The submissions on this file and the Inspector's report were considered at a meeting held on 25/03/2026.

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

Planning

Commissioner:

  
Chris McGarry

Date: 25/03/2026

### DRAFT WORDING FOR ORDER

#### Reasons and Considerations

#### Reasons and Considerations

The Commission performed its functions in relation to the making of its decision, in a manner consistent with the Climate Action and Low Carbon Development Act 2015, as amended; the Climate Action Plan 2024 and Climate Action Plan 2025, and had regard to the following:

- (a) the location of the site within the development boundary of Mallow, designated as a 'Key Town' in the Regional Spatial & Economic Strategy for the Southern

- Region 2020-2032 and the Cork County Development Plan 2022-2028,
- (b) the zoning for the site and the policies and objectives for the area as set out in the Cork County Development Plan 2022-2028,
  - (c) Delivering Homes, Building Communities 2025-2030: An Action Plan on Housing Supply and Targeting Homelessness,
  - (d) the provisions of Project Ireland 2040 - National Planning Framework, First Revision (April 2025), which identifies the importance of compact growth,
  - (e) the provisions of the Eastern and Midland Regional Assembly Regional Spatial and Economic Strategy 2019-2031, which supports compact sustainable growth and accelerated housing delivery integrated with enabling infrastructure,
  - (f) the provisions of Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities, issued by the Department of Housing, Local Government and Heritage in January 2024,
  - (g) the provisions of the Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities issued by the Department of Housing, Local Government and Heritage in July 2023,
  - (h) the provisions of the Design Manual for Urban Roads and Streets (DMURS) 2019,
  - (i) Ireland's 4th National Biodiversity Action Plan 2023–2030, issued by the Department of Housing, Local Government and Heritage in 2024,
  - (j) the nature, scale and design of the proposed development,
  - (k) the existing pattern of development in the area,
  - (l) the proximity of the site to Mallow Train Station and Mallow Town Centre,
  - (m) the proposed infrastructure upgrade works that will improve the sites accessibility and connectivity,
  - (n) the submissions received,
  - (o) the reports from the Planning Authority, and
  - (p) the report and recommendation of the Planning Inspector.

### **Appropriate Assessment: Stage 1:**

The Commission considered the documents submitted with the application, and all the other relevant submissions on file, and carried out an Appropriate Assessment screening exercise in relation to the potential effects of the proposed development on designated European sites. The Commission agreed with the screening assessment and conclusion carried out in the Inspector's Report that Blackwater River (Cork/Waterford) Special Area of Conservation (Site Code 002170) is the only European Site in respect of which the proposed development has the potential to have a significant effect in view of the Conservation Objectives for the site and that Stage 2 Appropriate Assessment is, therefore, required.

### **Appropriate Assessment: Stage 2:**

The Commission considered the Natura Impact Statement and all other relevant submissions including expert submissions received and carried out an Appropriate Assessment of the implications of the proposed development on Blackwater River (Cork/Waterford) Special Area of Conservation (Site Code 002170), in view of the site's conservation objectives. The Commission considered that the information before it was sufficient to undertake a complete assessment of all aspects of the proposed development in relation to the conservation objectives of the sites using the best available scientific knowledge in the field.

In completing the assessment, the Commission considered, in particular, the following:

- (a) the likely direct and indirect impacts arising from the proposed development both individually or in combination with other plans or projects,
- (b) the mitigation measures which are included as part of the current proposal, and
- (c) the conservation objectives for the European Site.

In completing the Appropriate Assessment, the Commission accepted and adopted the Appropriate Assessment carried out in the Inspector's report in respect of the potential effects of the proposed development on the aforementioned European Site, having regard to the site's conservation objectives.

In overall conclusion, the Commission was satisfied that the proposed development, by itself or in combination with other plans or projects, would not adversely affect the integrity of the European Site in view of its conservation objectives. This conclusion is based on a complete assessment of all aspects of the proposed project and there is no reasonable scientific doubt as to the absence of adverse effects.

**Environmental Impact Assessment Screening:**

The Commission completed an Environmental Impact Assessment screening of the proposed development and considered that the Environmental Impact Assessment Screening Report and other documents and drawings submitted by the applicant identifies and describes adequately the direct, indirect, secondary and cumulative effects of the proposed development on the environment.

The Commission, having regard to:

- (a) the criteria set out in Schedule 7, in particular
  - (i) the nature and scale of the proposed housing development, in an established residential area served by public infrastructure,
  - (ii) the absence of any significant environmental sensitivity in the vicinity, and
  - (iii) the location of the development outside of any sensitive location specified in article 109(4)(a) of the Planning and Development Regulations 2001 (as amended).
- (b) the results of other relevant assessments of the effects on the environment submitted by the applicant and the results of the Strategic Environmental Assessment of the Cork County Development Plan 2022-2028 under the SEA Directive, and
- (c) the features and measures proposed by applicant envisaged to avoid or prevent what might otherwise have been significant effects on the environment, including those identified in the Construction Environmental Management Plan, Ecological Impact Assessment, Natura Impact Assessment, Water Framework Directive Assessment, Watercourse Protection Plan, Operational Waste Management Plan, and Archaeological Impact Assessment,

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 is not required.

### **Conclusions on Proper Planning and Sustainable Development:**

The Commission considered that, subject to compliance with the conditions set out below, the proposed development would constitute an acceptable density of development in this serviced, urban location, would not seriously injure the residential or visual amenities of the area or properties in the vicinity, would be acceptable in terms of layout, urban design, height and unit mix and would be acceptable in terms of pedestrian and traffic, pedestrian safety and would contribute to the provision of new residential development in an appropriately zoned site and with full policy support at national, regional and local level, and in accordance with the relevant provisions of the Compact Settlement Guidelines 2024, including the consistency of the proposed development with the relevant Specific Planning Policy Requirements therein (SPPRs 1 and 2), and noting the legislative obligation under Section 34 of the Planning and Development Act 2000, as amended, for both a planning authority and the Commission to apply SPPRs. The proposed development would be in accordance with the totality of the relevant provisions of the Cork County Development Plan 2022-2028 and would, therefore, be in accordance with the proper planning and sustainable development of the area.

### **Conditions**

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars received by the planning authority on the 10th day of September 2025, 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. The mitigation measures contained in the submitted Natura Impact Statement (NIS), shall be implemented.

**Reason:** To protect the integrity of European Sites.

3. The mitigation measures contained in the submitted Watercourse Protection Plan and Ecological Impact Assessment (EclA), and associated appendices shall be fully implemented, except as may be otherwise required or specified by way of planning condition.

**Reason:** In the interests of clarity, environmental protection and the proper planning and sustainable development of the area.

4. A pre-construction check of the activity status of all known badger setts will be required within 12 months of any constructions works commencing within the zone of influence of the setts. This survey shall be carried out by an Ecologist who is appropriately qualified and experienced in undertaking badger surveys and in line with best practice at the appropriate time of year. The developer shall ensure that the development is in compliance with the relevant legislation on the protection of badgers. The applicant shall ensure that the following specific mitigation measures are implemented in order to prevent any disturbance to badger setts not directly affected by the proposed development:

- (a) No heavy machinery shall be used within 30 metres of badger setts at any time.
- (b) No works shall be undertaken within 50 metres of active setts during the breeding season (December to June inclusive).
- (c) Lighter machinery (generally wheeled vehicles) shall not be used within 20 metres of a sett entrance.
- (d) Neither blasting nor pile driving shall be undertaken within 150 metres of active setts during the breeding season (December to June inclusive).

- (e) The results of the pre-construction survey and any proposed mitigation measures shall be submitted prior to the commencement of works for the written approval of the planning authority.

**Reason:** To ensure the protection of Badgers.

- 5. All works shall be supervised by an on-site Ecological Clerk of Works who will report on compliance with the relevant mitigation measures. The Ecological Clerk of Works shall be empowered to halt works where they consider that the continuation of the works is likely to result in a significant pollution or siltation incident or impact on protected habitats or species, and on-site works will cease until authorised to continue by the planning authority. A compliance monitoring report shall be prepared by the Ecological Clerk of Works and shall be submitted to the planning authority at the end of the main construction period.

**Reason:** To ensure compliance with mitigation measures and to protect biodiversity.

- 6. The development shall be carried out on a phased basis, in accordance with a phasing scheme which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of any development.
  - (a) Prior to commencement of any development on the overall site, details of the first phase shall be submitted to, and agreed in writing with, the planning authority. The first phase shall consist of not more than 46 number dwelling units.
  - (b) Prior to occupation of any unit in Phase 2,
    - (i) The pedestrian and cycle connection permitted as part of the Strategic Housing Development ABP-312640-22 shall be completed to the written satisfaction of the planning authority

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

7. The developer shall be solely responsible for the delivery and installation of all upgraded and new footpath and speed control / traffic calming infrastructure between the subject site and Kennel Hill junction as per Proposed Speed Control Measures (Sheet 1 of 2 and Sheet 2 of 2), Drawing Reference Numbers 6334\_4014\_D and 6334\_4015\_C. Delivery of this infrastructure to be completed in conjunction with Phase 1 of the development.

**Reason:** In the interests of orderly development.

8. No dwelling shall be occupied until all services (drainage, water supply, electricity and /or other energy supply, public lighting and roads) for each dwelling unit have been completed and are operational.

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

9. Details of the materials, colours and textures of all external finishes to the proposed dwellings, ancillary structures and hard landscaping shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interest of visual amenity and to ensure an appropriate high standard of development.

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

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

11. Drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements, in writing where necessary, of the planning authority for such works and services.

**Reason:** In the interest of public health.

12. 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.

13. Public lighting shall be provided in accordance with a scheme which shall be submitted to and agreed in writing with the planning authority prior to the commencement of development.

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

14. The internal road network serving the proposed development including turning bays, junctions, parking areas, footpaths, and kerbs shall comply with the detailed construction standards of the planning authority for such works and design standards outlined in Design Manual for Urban Roads and Streets (DMURS).

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

15. A road marking and traffic signs drawing shall be submitted and agreed with the local office in advance of the works commencing. Double Yellow Lining to be provided at all internal Junctions and Raised Tables / Pedestrian Crossing Locations to prohibit Car Parking within Sightline Triangles. (All signs and road markings shall be in accordance with the current Traffic Signs Manual).

**Reason:** In the interest of orderly development.

16. All roads and footpaths and cycleways shown to adjoining lands shall be constructed up to the boundaries to provide access to adjoining lands with no obstruction including the erection of any structure which would otherwise constitute exempted development under the Planning and Development Regulations 2001, as amended. These areas shall be shown in a revised taking in charge drawing which shall be submitted to and agreed in writing with the planning authority prior to commencement of development.

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

17. The development shall be carried out and operated in accordance with the provisions of the Mobility Management Plan (MMP) submitted to the planning authority. The developer shall undertake an annual monitoring exercise to the satisfaction of the planning authority for the first five years following the completion and occupation of Phase 1 and shall submit the results to the planning authority for consideration and placement on the public file.

**Reason:** To achieve a reasonable modal split in transport and travel patterns in the interest of sustainable development.

18. All of the communal parking areas serving the residential units shall be provided with functional electric vehicle charging points, and all of the in-curtilage car parking spaces serving residential units shall be provided with electric connections to the exterior of the houses to allow for the provision of future electric vehicle charging points.

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

19. Proposals for an estate/street name, house/apartment 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/apartment 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.

20. Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Friday inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

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

21. Prior to the commencement of any works associated with the development hereby permitted, the developer shall submit a detailed Construction Environmental Management Plan (CEMP) for the written agreement of the planning authority. This plan shall provide details of intended construction practice for the development with measures to reflect mitigation described in the submitted Ecological Impact Assessment, Watercourse Management Plan and Natura Impact Statement. A record of daily checks that the construction works are being undertaken in accordance with the CEMP shall be kept at the construction site office for inspection by the planning authority. The agreed CEMP shall be implemented in full in the carrying out of the development.

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

22. A wheel washing facility shall be provided for the duration of the construction period, adjacent to the site exit, the location and details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interest of traffic safety and biosecurity.

23. 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 within each house plot and for each apartment unit, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the agreed waste facilities shall be maintained, and waste shall be managed in accordance with the agreed plan.

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

24. 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 Environmental Protection Agency'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.

25. The landscaping masterplan, as submitted to the planning authority on the 10<sup>th</sup> day of September 2025 shall be carried out within six months of the date of commencement of each phase of the development.

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.

26. 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.

27. 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 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 Coimisiún 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.

28. (a) Prior to the commencement of the development as permitted, the applicant or any person with an interest in the land shall enter into an agreement with the planning authority (such agreement must specify the number and location of each house or duplex unit), pursuant to Section 47

of the Planning and Development Act 2000, that restricts all relevant residential units permitted, to first occupation by individual purchasers i.e. those not being a corporate entity, 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 of the residential units for use by individual purchasers and/or to those eligible for the occupation of social and/or affordable housing, including cost rental housing.
- (c) The determination of the planning authority as required in (b) shall be subject to receipt by the planning and housing authority of satisfactory documentary evidence from the applicant or any person with an interest in the land regarding the sales and marketing of the specified housing units, in which case the planning authority shall confirm in writing to the applicant or any person with an interest in the land that the Section 47 agreement has been terminated and that the requirement of this planning condition has been discharged in respect of each specified housing unit.

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

- 29. 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 Coimisiún Pleanála for determination.

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

30. 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 Coimisiún 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.

31. The developer shall pay a financial contribution to the planning authority as a special contribution under Section 48(2)(c) of the Planning and Development Act 2000, as amended, in respect of works proposed to be carried out, for the provision of Contribution to signalisation of Junction 3, Kennel Hill Junction with National Secondary Route, N72 & Proportional Contribution for Re-Surfacing of L-9002-0 Access Route to Site, which benefits the proposed development. The amount of the contribution shall be agreed between the planning authority and the developer, or, in default of such agreement, the matter shall be referred to An Coimisiún Pleanála for determination. The contribution shall be paid prior to commencement of development or in such phased payments as may be agreed prior to the commencement of the development and shall be subject to

any applicable indexation provisions of the Scheme at the time of payment. Details of the terms of payment of this financial contribution shall be agreed in writing between the planning authority and the developer.

**Reason:** It is considered reasonable that the developer should contribute towards the specific exceptional costs which are incurred by the planning authority in respect of public services, which are not covered in the Development Contribution Scheme or the Supplementary Development Contribution Scheme, and which will benefit the proposed development.

**Note:** The Commission noted the commentary of the inspector in respect of the development plan provisions relating to, separation distance between opposing windows (section 4.10.8) and the quantitative standard for private open space (Objective GI 14-6 (c)) and where the inspector expressed the opinion that a material contravention can be considered to arise. Having considered the specific facts of the case and the relevant provisions of the development plan, the Commission did not share this opinion for the following reasons. With regard to window separation distances, section 4.10.8 states that a minimum clearance distance is required in general. Furthermore, reduced distances may be acceptable in certain instances, depending on orientation and location. Finally, section 4.10.8 advises that where minimum distances are not met, the applicant will submit a daylight availability analysis. Within the overall residential development subject of this application, a small number of instances arise where the separation distance is below 22 metres. However, the requirement is expressly referenced as being 'in general' and thus no absolute obligation of the development plan is contravened in the context of the design and layout as set out in the application. In any case, the application documentation as submitted also includes a daylight assessment which shows no adverse impact from the design and layout of the dwelling units proposed and the development plan clearly allows such detail to be a consideration in circumstances where separation distances are not otherwise met. The separation distances, where less than 22 metres, are always more than the minimum distance of 16 metres set out in the 2024 Compact Settlement Guidelines, (SPPR 1), noting the legislative obligation under Section 34 of the Planning and Development Act 2000, as amended, for both a planning authority and the Commission to apply SPPRs instead

of the provisions of the development plan where the SPPRs differ from those provisions are of a high quality of design and layout and in accordance with the proper planning and sustainable development of new residential accommodation at this location.

With regard to quantitative private open space standards, the inspector noted that some 8 gardens proposed at three-bedroom dwellings would be 57 square metres in area, whereas the development plan provisions reference 60 square metres. The Commission considered the form, layout and disposition of these gardens and concluded that a difference of 3 square metres in a small number of garden areas, whilst a technical contravention of the development plan standard, would not be material in terms of any actual impact on the form, quality and usability of those garden areas. The Commission also noted that these garden sizes are significantly in excess of the minimum standard set out in the in the 2024 Compact Settlement Guidelines, (SPPR 2) noting the legislative obligation under Section 34 of the Planning and Development Act 2000, as amended, for both a planning authority and the Commission to apply SPPRs instead of the provisions of the development plan where the SPPRs differ from those provisions.

The Commission also noted and shared the positive conclusion as set out by the inspector in terms of the high quality of the overall residential scheme including those locations where separation distances/garden areas issues were identified and agreed with the inspector that the scheme warranted a grant of permission without any change in design or layout to those area, either by condition or omission.

On the basis of the above, the Commission concluded that no material contravention arises on either of these issues.

The Commission also noted the recommendation of the inspector to attach a condition linking Phase 2 of the permitted development to the upgrading of the N72/Kennell Hill junction to a signalised junction. On this matter, the Commission shared the opinion of the Cork County planning officer in his report dated 03/11/2025, that the development plan does not provide any restriction on zoned lands in Mallow that requires development of this junction prior to occupation (or otherwise). The Commission did agree with the inspector that it is reasonable for the developer to contribute to the completion of those junction works via a Section 48(2)(c) condition and this is attached.