



An
Bord
Pleanála

Board Order ABP-315500-23

Planning and Development Acts 2000 to 2022

Planning Authority: Cork County Council

Planning Register Reference Number: 22/4501

Appeal by Esther Luddy and Louise Luddy of 3 Emmet Court, Emmet Street, Mallow, County Cork, by Gerard and Kathleen Cremin of 4 Prospect Mews, Emmet Street, Mallow, County Cork and by Kindana Limited care of HW Planning of 5 Joyce House, Barrack Square, Ballincollig, County Cork against the decision made on the 5th day of December, 2022 by Cork County Council to grant permission subject to conditions to the said Kindana Limited care of HW Planning of 5 Joyce House, Barrack Square, Ballincollig, County Cork in accordance with plans and particulars lodged with the said Council.

Proposed Development: Demolition of existing structures and construction of a residential development of 22 number apartments and duplex units in three number blocks. Block 1 is two number storeys and comprises four number two bed units. Block 2 is part one to part three number storeys and contains six number one bed units, six number two bed units and four number three bed units. Block 3 is two number storeys comprising two number one bed units. The development will also include boundary treatments, hard and soft landscaping, car parking, cycle parking, bin storage and all ancillary site development works all at Emmet Street, Mallow, County Cork.

Decision

GRANT permission for the above proposed development in accordance with the said plans and particulars based on the reasons and considerations under and subject to the conditions set out below.

Reasons and Considerations

Having regard to the location of the site on serviced lands within Mallow town, in close proximity to the town centre and to public transport infrastructure, and to the nature and scale of the proposed development, it is considered that subject to compliance with the conditions set out below, the proposed development would be in compliance with Objective ZU 18-9 of the Cork County Development Plan 2022-2028 in relation to residential development and with Specific Planning Policy Requirements (SPPRs) 1, 3 and 4 of Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities (Department of Housing, Local Government and Heritage, 2024), would not seriously injure the visual or residential amenities of the area, and would be acceptable in terms of traffic safety. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

Appropriate Assessment:

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 built-up urban area, the distances to the nearest European sites, and the hydrological pathway considerations, submissions on file, the submitted Appropriate Assessment screening documentation 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.

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 21st day of June 2022 and on the 11th day of October 2022, 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. Prior to commencement of development, revised drawings shall be submitted to and agreed in writing by the planning authority which shall show:
 - (a) A revised window design to serve Bedroom 2 of Unit 20 (Block 2), comprising of an angled window with the glazing angled to the south west.
 - (b) The window serving the upper level hall on the rear (west) elevation of Unit 20 (Block 2) shall comprise obscure/opaque glazing.
 - (c) The window on the west (side) elevation serving the kitchen/living/dining area of Unit 22 (Block 3) shall comprise of a high level window.

Reason: In the interest of residential amenities.

3. (a) Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority.
- (b) Prior to commencement of development, revised plans and particulars shall be submitted to and agreed in writing by the planning authority which shall show the existing collection network traversing the north western area of the site. Details to be submitted shall include diversion or decommissioning options for this foul sewer. Any wayleaves, including stated dimensions, shall be shown on the revised drawings.

Reason: In the interest of public health.

4. Prior to commencement of development, the developer shall enter into water and/or wastewater connection agreements with Uisce Éireann.

Reason: In the interest of public health.

5. Prior to commencement of development, a revised site-specific Construction and Environmental Management Plan (CEMP) 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 practices for the development, including:
 - (a) The recommendations contained in the Invasive Species Management Plan (ISMP), shall be incorporated into the revised CEMP.
 - (b) Location of the site and materials compound(s) including area(s) identified for the storage of construction refuse.
 - (c) Location of areas for construction site offices and staff facilities.
 - (d) Details of site security fencing and hoardings.
 - (e) Details of on-site car parking facilities for site workers during the course of construction.

- (f) 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.
- (g) Measures to obviate queuing of construction traffic on the adjoining road network.
- (h) Measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network.
- (i) 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.
- (j) Provision of parking for existing properties during the construction period.
- (k) Details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels.
- (l) 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.
- (m) Off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil.
- (n) 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 interest of amenities, public health and safety.

6. Prior to 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 sustainable waste management.

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

8. The developer shall facilitate the preservation, recording and protection of archaeological materials or features that may exist within the site. In this regard, the developer shall -
 - (a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development,
 - (b) employ a suitably-qualified archaeologist who shall monitor all site investigations and other excavation works, and
 - (c) provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove.

In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.

Reason: In order to conserve the archaeological heritage of the site and to secure the preservation and protection of any remains that may exist within the site.

9. Prior to commencement of development, a revised landscaping scheme shall be submitted to and agreed in writing with the planning authority.

This scheme shall include the following:

- (a) A plan to scale of not less than 1:500 showing –
 - (i) The species, variety, number, size and locations of all proposed trees and shrubs, which shall comprise predominantly native species.
 - (ii) Hard landscaping works, specifying surfacing materials, furniture, play equipment and finished levels.
- (b) 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 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.

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10. The boundary treatment to adjoining site boundaries shall be carried out in accordance with –

- (a) Details shown on Proposed Landscape Plan (drawing number 1920/P/003C), attached to the submitted Boundary Report, and
- (b) Appendix 2: Method statement on the repair of boundary walls in the submitted Architectural Heritage Impact Assessment.

Reason: In the interest of built heritage.

11. Prior to commencement of development, a revised site layout plan shall be submitted which shall show

- (i) The provision of 13 number car parking spaces, to include:
 - (a) One number disabled space which shall be provided with functional electric vehicle (EV) charging points.
 - (b) One number short-stay Electric Vehicle (EV) parking space shall be provided.
- (ii) Four number cycle spaces near the southern site boundary shall comprise a mix of larger/cargo bike spaces and electric bike spaces.

Reason: In the interest of sustainable transportation.

12. 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 prior to the making available for occupation of any residential unit.

Reason: In the interests of amenity and public safety.

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 with the proposed development.

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

14. Details of materials, colours and textures of all 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.

15. Proposals for a naming 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 estate/street signs, and house/apartment numbers, shall be provided in accordance with the agreed scheme. The proposed names 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 place names for new residential areas.

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

17. The internal road network serving the proposed development, including turning bays, junctions, parking areas, footpaths and kerbs shall comply with the detailed standards of the planning authority for such road works.

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

18. Prior to commencement of development, details of the proposed pedestrian access at Humes Lane shall be submitted to and agreed in writing by the planning authority. Details to be submitted shall include dimensioned drawings specifying heights and external finishes of this boundary.

Reason: In the interest of orderly development and pedestrian safety.

19. Prior to commencement of development, revised plans and particulars shall be submitted to and agreed in writing with the planning authority which shall show a raised table type road crossing to be installed at a location to be agreed on Emmet Street.

Reason: In the interest of orderly development and traffic safety.

20. 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.

21. 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.

22. 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.



Mary Henchy

**Member of An Bord Pleanála
duly authorised to authenticate
the seal of the Board.**

Dated this *18th* day of *July* 2024