

An
Bord
Pleanála

Board Order
ABP-318257-23

Planning and Development Acts 2000 to 2022

Planning Authority: Limerick City and County Council

Planning Register Reference Number: 221400

Appeal by Saint Munchins Umbrella Group care of Linda Ledger, Saint Munchins Community Centre of Kileely Court, Kileely, Limerick against the decision made on the 22nd day of September, 2023 by Limerick City and County Council to grant, subject to conditions, a permission to Tinwat Holdings Limited (in partnership with Cluid Housing) care of Fewer Harrington and Partners, Multidisciplinary Architecture, of Studio 14, The Atrium, Maritana Gate, Canada Street, Waterford in accordance with plans and particulars lodged with the said Council:

Proposed Development: The construction of a residential development of 46 number apartments consisting of the following: one number four-storey apartment block consisting of 23 number one-bed apartments, 14 number two-bed apartments and a community room. One number three-storey apartment block consisting of nine number two-bed apartments. Permission is also sought for the construction of an ESB sub-station, switch room, bin store, bicycle store, landscaped bio-diversity park, external water tank and heat pump units, surface water attenuation swale, connections to existing drainage and water supply network along with all associated site works, all at Prior's Land, New Road, Thomondgate, Limerick.

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 pattern of development in the area and its zoning under the Limerick Development Plan 2022-2028, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the character of the area or the amenities of property in the vicinity, would not be prejudicial to public health and would be acceptable in terms of traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

Appropriate Assessment Screening

In completing the screening for Appropriate Assessment, the Board accepted and adopted the screening assessment and conclusion carried out in the Inspector's Report in respect of the identification of European sites that could potentially be affected, and the identification and assessment of the potential likely significant effects of the proposed development, either individually or in combination with other plans or projects, on these European sites in view of the sites' conservation objectives.

The Board is satisfied that the proposed development, either individually or in combination with other plans or projects, would not be likely to a significant effect on any European sites, in view of the site's conservation objectives, other than the River Shannon and River Fergus Estuaries Special Protection Area (Site Code 004077) and Lower River Shannon Special Area of

Conservation (Site Code 002165), for which Appropriate Assessment is required.

Appropriate Assessment Stage 2

The Board considered the Natura Impact Statement submitted with the planning application and all other relevant submissions and carried out an Appropriate Assessment of the implications of the proposed development on European Sites. The Board considered the information before it was adequate to carry out the Appropriate Assessment.

In completing the Appropriate Assessment, the Board 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 were included as part of the current proposal, and
- (c) the conservation objectives for the European Sites.

In completing the Appropriate Assessment, the Board and accepted and adopted the Appropriate Assessment carried out in the Planning Inspector's report in respect of the potential effects of the proposed development on the River Shannon and River Fergus Estuaries Special Protection Area (Site Code 004077) and Lower River Shannon Special Area of Conservation (Site Code 002165) having regard to the sites' conservation objectives.

In the overall conclusion, the Board was satisfied that the proposed development subject to identifiable mitigation measures, by itself or in

combination with other plans or projects, would not adversely affect the integrity of the sites listed above, or any other European Site, in view of the sites conservation objectives and there is no reasonable scientific doubt as to the absence of such effects.

Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by further plans and particulars received by the planning authority on 31st day of July 2023, 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 and monitoring commitments identified in the Natura Impact Statement, Invasive Alien Species of Plan (IAPS) Phase 2 Management Plan (subject to condition number 4 hereunder), Construction and Environmental Management Plan and other plans and particulars submitted with the application shall be carried out in full except as may otherwise be required in order to comply with other conditions.

Prior to the commencement of development, the developer shall submit to the planning authority, for their written agreement, a schedule of mitigation measures and monitoring commitments in a single document, as identified in the submitted documents and details of a time schedule

for implementation of the mitigation measures and associated monitoring.

Reason: In the interest of clarity and protection of the environment during the construction and operational phases of the proposed development.

3. Prior to the commencement of any development of site, the developer shall submit for the written agreement of the planning authority revised drawings showing:
 - (a) Omission of 13 car parking spaces between Blocks A and B (namely spaces 25 to 28; 31 to 39 inclusive on drawing number PP-301/A) with details of how this area shall be suitably landscaped.
 - (b) Details of proposed covered cycle spaces, showing compliance with standards set out in the Limerick Development Plan 2022.
 - (c) Stage 3 Road Safety Audit.

Reason: In the interests of visual amenity, to facilitate sustainable modes of transportation and traffic safety.

4. Prior to the commencement of development on site, the developer shall ascertain and comply with all requirements of the planning authority with regards to the eradication of invasive species from the site.

In this regard, the developer shall also prepare an assessment and method statement on how best to deal with invasive species contaminated material on site which shall be submitted to the planning authority, for their written agreement, prior to the commencement of any works on site. The method statement shall provide details of the buffer

zones, nominated authorised waste collector and on-going treatment programme. The works shall be carried out under the supervision of an invasive species specialist, who shall monitor all site investigations and other works and who, on completion shall submit a report certifying that the removal process of invasive species is satisfactory.

Reason: In the interests of environmental protection and orderly development.

5. No residential unit shall be occupied until such time as the proposed Biodiversity Park is fully completed to the written satisfaction of the planning authority.

Reason: In the interest of social inclusion and to secure the integrity of the proposed development including open spaces.

6. Details of the materials, colours and textures of all the external finishes to the proposed buildings shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Render shall not be used as an external finish.

Reason: In the interest of visual amenity.

7. The developer shall comply with all requirements of the planning authority in relation to roads, access, lighting and parking arrangements, including facilities for the recharging of electric vehicles. In particular:

- (a) The roads and traffic arrangements serving the site (including signage) shall be in accordance with the detailed requirements of the planning authority for such works and shall be carried out at the developer's expense.

- (b) The roads layout shall comply with the requirements of the Design Manual for Urban Roads and Streets (2019), in particular carriageway widths and corner radii.
- (c) The materials used in any roads/footpaths provided by the developer shall comply with the detailed standards of the planning authority for such road works,
- (d) A detailed construction traffic management plan shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The plan shall include details of arrangements for routes for construction traffic, parking during the construction phase, the location of the compound for storage of plant and machinery and the location for storage of deliveries to the site

Reason: In the interests of traffic, cyclist and pedestrian safety and to protect residential amenity.

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. Site development and building works shall be carried out only between the hours of 0800 to 1900, Mondays to Fridays inclusive, between 0900 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.

10. Public lighting shall be provided in accordance with a scheme, which shall include lighting along pedestrian routes through open spaces 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 dwelling.

Reason: In the interests of amenity and public safety.

11. 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 and to ensure a satisfactory standard of development.

12. The developer shall enter into water and wastewater connection agreements with Uisce Éireann, prior to commencement of development.

Reason: In the interest of public health.

13. The site shall be landscaped in accordance with the detailed comprehensive scheme of landscaping, which accompanied the application submitted, unless otherwise agreed in writing with, the planning authority prior to commencement of development. The developer shall retain the services of a suitably qualified Landscape Architect throughout the life of the site development works. The approved landscaping scheme shall be implemented fully in the first planting season following completion of the development or each phase of the development and any plant materials that die or are removed within three years of planting shall be replaced in the first planting season thereafter.

Reason: To ensure a satisfactory completion and maintenance of the development in the interests of residential amenity and in the interests of protecting the environment.

14. The proposed development shall make provision for the charging of electrical vehicles. All car parking spaces serving the development shall be provided with electrical connections, to allow for the provision of future charging points and in the case of 10% of each of these spaces, shall be provided with electrical charging points by the developer. Details

of how it is proposed to comply with these requirements, including details of design of, and signage for, the electrical charging points and the provision for the operation and maintenance of the charging points shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of sustainable transportation.

15. Proposals for the development name, 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 signs, and 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.

16. No additional development shall take place above roof parapet level, including lift motor enclosures, air handling equipment, storage tanks, ducts or other external plant, telecommunication aerials, antennas or equipment, unless authorised by a further grant of planning permission.

Reason: To protect the residential amenities of property in the vicinity and the visual amenities of the area.

17. The construction of the development shall be managed in accordance with a Final Construction and Environmental Management Plan, which shall be submitted to, and agreed in writing with the planning authority prior to commencement of development. This plan shall provide, inter alia: details and location of proposed construction compounds, details of intended construction practice for the development, including noise and dust management measures, details of arrangements for routes for construction traffic, parking during the construction phase, and off-site disposal of construction/demolition waste.

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

18. 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.

19. All service cables associated with the proposed development (such as electrical, communal television, telephone and public lighting cables) shall be run underground within the site. In this regard, ducting shall be

provided to facilitate the provision of broadband infrastructure within the proposed development.

Reason: In the interest of orderly development and the visual amenities of the area.

19. 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.

20. The developer shall facilitate the archaeological appraisal of the site and shall provide for the preservation, recording and protection of archaeological materials or features which 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, and
- (b) employ a suitably-qualified archaeologist prior to the commencement of development. The archaeologist shall assess the site and monitor all site development works. The assessment shall address the following issues:

- (i) the nature and location of archaeological material on the site, and
- (ii) the impact of the proposed development on such archaeological material.

A report, containing the results of the assessment, shall be submitted to the planning authority and, arising from this assessment, the developer shall agree in writing with the planning authority details regarding any further archaeological requirements (including, if necessary, archaeological excavation) prior to commencement of construction works. 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 area and to secure the preservation (in-situ or by record) and protection of any archaeological remains that may exist within the site.

21. The management and maintenance of the proposed development following its completion shall be the responsibility of a legally constituted management company. A management scheme providing adequate measures for the future maintenance of public open spaces, roads and communal areas shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

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

22. 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.

23. 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 of roads, footpaths, watermains, drains, 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 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 of the development.

24. 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.


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

Dated this 76th day of July 2024.