



An
Bord
Pleanála

Board Order ABP-318994-24

Planning and Development Acts 2000 to 2022

Planning Authority: Cork County Council

Planning Register Reference Number: 23/04946

Appeal by Eoghan Cudmore of 17 Spanish Walk, Convent Garden, Kinsale, County Cork against the decision made on the 15th day of January, 2024 by Cork County Council to grant subject to conditions a permission to Rafden Limited care of McCutcheon Halley Planning Consultants of 6 Joyce House, Barrack Square, Ballincollig, County Cork in accordance with plans and particulars lodged with the said Council.

Proposed Development: Demolition and removal of the former St. Joseph's National School and associated structures and construction of 18 number residential units consisting of two number five-bed dwellinghouses, 10 number four-bed dwellinghouses, three number three-bed duplex apartments and three number two-bed simplex apartments and all associated ancillary development works, including car and bicycle parking, footpaths, lighting, drainage, landscaping and amenity areas. Vehicular and pedestrian access serving the development will be via Blind Gate Street. Pedestrian access is also facilitated via Rampart Lane, all at Blind Gate Street and Rampart Lane, Town-Plots (Townland), Kinsale, 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 pattern of development in the area and the residential zoning for the site as set out in the Cork County Development Plan 2022-2028, it is considered that, subject to compliance with the conditions set out below, the proposed development would provide a high-quality residential development on an underutilised, brownfield site, would not seriously injure the character of the area or the amenities of property in the vicinity, and would provide an adequate standard of residential amenity for future occupiers. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

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Conditions

1. The proposed 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 8th day of December, 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 proposed 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, the developer shall submit the following for the written agreement of the planning authority:
 - (a) revised drawings, at an appropriate scale, showing the proposed terrace of unit numbers 13 - 18 relocated a further one metre east, so as to ensure that the terrace is located a minimum of four metres from the eastern boundary of the site. This change may result in the configuration/relocation of the permitted bicycle stands/bin storage to another accessible location within the site,
 - (b) revised drawings, at an appropriate scale, showing proposed unit numbers 6 and 7 reduced in height to avoid impacts on existing residential amenities,
 - (c) details of windows at first and second floor level in east elevation of proposed House Type G which shall be permanently comprised of obscure glazing,

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- (d) detailed methodology and specification, with accompanying drawings, for the restoration of Rampart Lane historic wall and all other historic masonry along the site boundaries. This shall be prepared by a suitably qualified conservation specialist,
- (e) further details in relation to the proposed bio-retention planting area,
- (f) a proposed phasing plan, and
- (g) details of proposed measures to ensure the protection of existing trees and heritage walls on site during the course of the construction works.

Reason: In the interest of protecting existing residential amenity and of clarity, and in the interest of the proper planning and sustainable development of the area.

- 3. 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. The roof colour shall be blue-black, black, dark brown or dark grey in colour only.

Reason: In the interest of visual amenity.

- 4. Each residential unit shall be used as a single dwelling unit only and shall not be sub-divided in any manner or used as two or more separate habitable units.

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

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5. 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, 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, and
- (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 interest of traffic, cyclist and pedestrian safety and to protect residential amenity.

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

7. 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 and surface water management.

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

Reason: In the interest of public health.

9. 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) 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 and which shall not include prunus species,

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- (ii) details of screen planting which shall not include cupressocyparis x leylandii,
 - (iii) details of roadside/street planting which shall not include prunus species, and
 - (iv) hard landscaping works, specifying surfacing materials, furniture, play equipment and finished levels.
- (b) Specifications for mounding, levelling, cultivation and other operations associated with plant and grass establishment.
- (c) A timescale for implementation.

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 planning 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.

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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 house.

Reason: In the interest of amenity and public safety.

11. 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 interest of visual and residential amenity.

12. Proposals for an estate/street name, house and 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 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.

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13. The construction of the proposed development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the proposed development, including noise management measures and off-site disposal of construction/demolition waste.

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

14. 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 a 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 shall 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.

15. (a) 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 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.
- (b) This plan shall provide for screened bin stores, which shall accommodate not less than three standard-sized wheeled bins within the curtilage of each house plot.

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

16. 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 operations (including hydrological and geotechnical investigations) relating to the proposed development, and
- (b) employ a suitably qualified archaeologist prior to 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

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- (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. Details regarding any further archaeological requirements, including, if necessary, archaeological excavation prior to commencement of development shall be submitted to the planning authority for written agreement.

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.

- 17. 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 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 the land 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.

18. 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 the development in the interest of residential amenity.

19. (a) Prior to 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 relevant 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 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.

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 of roads, footpaths, watermains, drains, open space and other services required in connection with the development, coupled with an agreement empowering the planning authority to apply such security or part thereof to the satisfactory completion 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.

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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.



Peter Mullan

Member of An Bord Pleanála

duly authorised to authenticate

the seal of the Board.

Dated this *1st* **day of** *November* **2024.**