

An
Coimisiún
Pleanála

Commission Order
ACP-323515-25

Planning and Development Act 2000, as amended

Planning Authority: Cork City Council

Planning Register Reference Number: 25/43946

Appeal by Gerard Harvey of Assumpta, Kinsale Road, Cork and by others against the decision made on the 6th day of August, 2025 by Cork City Council to grant subject to conditions a permission to BMC Duffy Property Group Limited care of Coakley O'Neill Town Planning NSC Campus, Mahon, Cork in accordance with plans and particulars lodged with the said Council.

Proposed Development: Large-Scale Residential Development (LRD) of 170 number residential units (158 number apartments and 12 number townhouse apartments, to include 51 number one-bed units, 84 number two-bed units, 35 number three-bed units) arranged in four number blocks varying in height from four to part eight/part nine storeys over ground. The proposed development also includes a creche, café and management office on the ground floor level of Block 3 and four number retail units on the ground floor level of Block 4, 514 number bicycle spaces, including 162 number visitor spaces, located either in four number bike sheds at undercroft level and ground level, or on the public plaza at ground level, nine number motorcycle spaces, and 82 number shared car parking spaces (including 13 number EV spaces and six number accessible spaces, three number of which are EV spaces) at

undercroft level and ground level, the provision of private, communal and public open space, including all balconies and terraces, rooftop solar panels and green roofs, internal roads and pathways, new vehicular and pedestrian access points from Kinsale Road and Pearse Road, including a terraced entrance, with cycle wheel ramp, from Pearse Road, six number bin stores at undercroft level and ground level, the relocation and upgrade of one number ESB substation, signage, and all associated site development works, drainage, including nature-based SuDS measures, and all hard and soft landscaping and boundary treatments. The proposed development will also facilitate the future implementation of Bus Connects along Kinsale Road, all at the Former Vita Cortex Plant, Kinsale Road and Pearse Road, 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

The Commission performed its functions in relation to the making of its decision in a manner consistent with Section 15(1) of the Climate Action and Low Carbon Act 2015, as amended by Section 17 of the Climate Action and Low Carbon Development (Amendment) Act 2021, (consistent with the Climate Action Plan 2024 and Climate Action Plan 2025 and the national long-term climate action strategy, national adaptation framework and approved sectoral adaptation plans set out in those Plans and in furtherance of the objective of mitigating greenhouse gas emissions and adapting to the effects of climate change in the State).

In coming to its decision, the Commission had regard to the following:

- (a) the need to plan for increased growth in accordance with the National Planning Framework, First Revision (April 2025) and the flexibility that applies to projected targets for future growth, including National Policy Objective 11,
- (b) the nature, scale and design of the proposed development, which is in accordance with the policies and objectives of the Cork City Development Plan 2022-2028,
- (c) the pattern of existing and permitted development and the availability of adequate social and physical infrastructure in the area,
- (d) 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,
- (e) the provisions of the Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities issued by the Department of Housing, Local Government and Heritage in January 2024,
- (f) Delivering Homes, Building Communities 2025-2030,
- (g) the policies and objectives of the Cork City Development Plan 2022-2028, the Regional Spatial & Economic Strategy for the Southern Region 2020-2032, and the Cork Metropolitan Area Strategic Plan,
- (h) the Planning System and Flood Risk Management Guidelines for Planning Authorities (including the associated Technical Appendices) issued by the Office of Public Works and the Department of Environment, Heritage and Local Government (2009),
- (i) the Childcare Facilities Guidelines for Planning Authorities, issued by the Government of Ireland (2001),

- (j) the submissions and observations received in relation to the planning application and the appeal,
- (k) the reports from the planning authority, and
- (l) the report and recommendation of the Inspector.

Appropriate Assessment Screening:

The Commission agreed with the screening assessment and conclusion carried out in the Inspector's report that the proposed development, by itself or in combination with other development, plans and projects in the vicinity, 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 and the preparation of a Natura Impact Statement is not, therefore, required.

This conclusion is based on:

- (a) objective information presented in the Appropriate Assessment Screening Report submitted to the planning authority,
- (b) standard pollution controls that would be employed regardless of proximity to a European Site and effectiveness of same,
- (c) the distance from European Sites, and
- (d) the absence of meaningful pathway to any European Site.

Environmental Impact Assessment Screening:

The Commission had regard to:

- (a) the criteria set out in Schedule 7, in particular:
 - (i) the limited 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 the location of the proposed development outside of the designated archaeological protection zone, and
 - (iii) the location of the proposed development outside of any sensitive location specified in Article 109(4)(a) of the Planning and Development Regulations 2001, as amended,
- (b) the completion of the remediation works on the site under planning permission planning register reference number 24/42868 and subject to an Integrated Pollution Control Licence (EPA Licence No: P0059-02),
- (c) the results of other relevant assessments of the effects on the environment submitted by the applicant, and

- (d) the features and measures proposed and envisaged by the applicant to avoid or prevent what might otherwise have been significant effects on the environment, including those identified in the Outline Construction Environmental Plan, the Outline Construction and Demolition Resource Waste Management Plan, the Outline Operational Waste Management Plan, the Remediation Status Report, the Flood Risk Assessment, and the Planning Engineering Report.

The Commission concluded that the proposed development would not be likely to have significant effects on the environment, and that an Environmental Impact Assessment Report is not, therefore, 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 be in accordance with the applicable Z08 Neighbourhood and Local Centres zoning, as set out in the Cork City Development Plan 2022-2028, would constitute an acceptable density and mix of residential development in this urban location, would not seriously injure the residential or visual amenities of the area, would be acceptable in terms of layout, urban design, height and unit mix, and would be acceptable in terms of traffic, pedestrian safety and convenience.

The proposed development would be in accordance with the relevant provisions of the Cork City Development Plan 2022-2028, except for objectives relating to density (Table 11.2), Height (Table 11.2) and Dwelling Unit Size Mix (Objective 11.2), where a material contravention can be considered to arise.

Nevertheless, having regard to the quality of the proposed scheme, the relevant provisions of the Compact Settlement Guidelines (2024), Building Height Guidelines, specifically SPPR 3, and the existing under provision of one and two-bedroom dwellings in the area, the Commission considered that, having regard to the provisions of Section 37(2)(a) of the Planning and Development Act 2000, as amended, the proposed development would be in accordance with the proper planning and sustainable development of the area and that a grant of permission is, therefore, warranted in this instance, notwithstanding the above.

The Commission considered that the proposed development would constitute an acceptable density of development in this urban location, would not seriously injure the residential or visual amenities of the area, would be acceptable in terms of urban design, height and quantum of development and dwelling mix, and would be acceptable in terms of pedestrian and traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

Conditions

1. The proposed development shall be carried out and completed in accordance with the plans and particulars lodged with the application, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the proposed development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. The proposed development shall be amended as follows:
 - (a) The top floor of the north elevation of Block 1 shall be set back by three metres.
 - (b) The bedroom window in Unit 1.6, on the north-east gable elevation, shall be replaced with an oblique window and shall face north towards Pearse Road.

Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of residential amenity and in order to prevent any overlooking of the adjoining property to the north-east.

3. Prior to commencement of development, the developer shall submit to the planning authority for written agreement revised details and plans for an increase in childcare capacity for a minimum of 30 childcare places.

Reason: To provide suitable childcare facilities for future residents in accordance with the provisions of the Childcare Facilities: Guidelines for Planning Authorities issued by the Department of the Environment and Local Government in June 2001, and in the interest of the amenities of the area.

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

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

5. The proposed 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. Specific agreement shall be reached with the planning authority for when the proposed creche shall become operational. 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.

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

6. Prior to commencement of development, details of the proposed southern boundary treatment of the site shall be submitted to, and agreed in writing with, the planning authority.

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

7. 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.

8. Prior to commencement of development, details of all signage associated with the residential, retail, café and creche uses of the proposed scheme shall be submitted to, and agreed in writing with, the planning authority.

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

9. Proposals for an estate/street 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 estate and street 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.

10. The landscaping scheme shown on drawing number CTC/2/XX/XX/00/DR/CSR/LA/101, as submitted to the planning authority on the 12th day of June, 2025, as may be amended by condition number 6 above, shall be carried out within the first planting season following substantial completion of external construction works. 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.

11. An alien invasive species management plan shall be submitted to the planning authority stating how on-site alien invasive species shall be removed and monitored over the time period of the development, pre-, during and post construction.

Reason: To remove alien species from the site in the interest of biodiversity.

12. 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 commencement of development. The scheme shall include lighting along pedestrian routes through open spaces and shall take account of trees within landscape plan drawing number CTC/2/XX/XX/00/DR/CSR/LA/101. Such lighting shall be provided prior to the making available for occupation of any residential unit.

Reason: In the interest of amenity and public safety.

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

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

14. Drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services. Prior to commencement of development, the developer shall submit to the planning authority for written agreement a Stage 2 - Detailed Design Stage Storm Water Audit. Upon completion of the development, a Stage 3 Completion Stormwater Audit to demonstrate that Sustainable Urban Drainage System measures have been installed, and are working as designed, and that there have been no misconnections or damage to storm water drainage infrastructure during construction, shall be submitted to the planning authority for written agreement.

Reason: In the interest of public health and surface water management.

15. 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.

16. Prior to commencement of development, the developer shall submit to, and agree in writing with the planning authority, an updated Construction Management Plan, which shall be adhered to during construction. This plan shall provide details of intended construction practice for the proposed development, including noise and dust management measures and off-site disposal of construction/demolition waste.

Reason: In the interest of public safety and amenity.

17. 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 safety and convenience.

18. The proposed development shall be carried out and operated in accordance with the provisions of the Mobility Management Plan (MMP) submitted to the planning authority on the 12th day of June, 2025. The specific measures detailed in Section 4 of the MMP to achieve the objectives and modal split targets for the proposed development shall be implemented in full upon first occupation. The developer shall undertake an annual monitoring exercise to the satisfaction of the planning authority for the first five years following first occupation 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.

19. Prior to commencement of development, the developer shall submit to, and agree in writing with, the planning authority details of the internal road network serving the proposed development, including, where applicable, turning bays, ramps, junctions, parking area, footpaths and kerbs, and signing and lining. All works shall be in accordance with the details and construction standards of the planning authority for such works and design standards as outlined in the Design Manual for Urban Roads and Streets. All costs associated with this condition shall be borne by the developer.

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

20. All findings of the Quality Audit (which includes a Road Safety Audit Stage, Walking Audit and a Cycle Audit) shall be closed out, signed off and incorporated into the proposed development. A Stage 3/4 Road Safety Audit shall also be undertaken, closed out, signed off and acted upon. All costs associated with this condition shall be borne by the developer.

Reason: In the interest of road safety.

21. All 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 units to allow for the provision of future electric vehicle charging points. Details of how it is proposed to comply with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of sustainable transportation.

22. 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 for each residential 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.

23. 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 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.

24. Site development and building works shall be carried out only between the hours of 0800 to 1800 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.

25. The developer shall liaise with Cork Airport/DAA and the Irish Aviation Authority Air Navigation Services Provider (IAA ANSP) at least 30 days prior to the erection of the crane to commence construction.

Reason: In the interest of aviation safety.

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

27. (a) Prior to 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 residential unit) pursuant to Section 47 of the Planning and Development Act 2000, as amended, 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 residential 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 residential 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 residential unit.

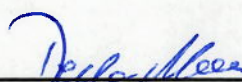
Reason: To restrict new housing development to use by persons of a particular class or description in order to ensure an adequate choice and supply of housing, including affordable housing, in the common good.

28. 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 planning authority of roads, footpaths, watermains, drains, public 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 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.

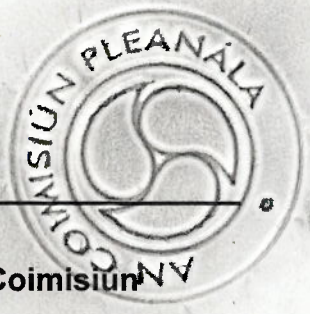
29. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the 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.



Declan Moore

Planning Commissioner of An Coimisiún
Pleanála duly authorised to authenticate
the seal of the Commission.



Dated this 17th day of DECEMBER 2025.