



An  
Bord  
Pleanála

**Board Direction**  
**BD-001084-18**  
**ABP-301221-18**

The submissions on this file and the Inspector's report were considered at a Board meeting held on 10/09/2018.

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

### **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, scale and location of the proposed development, the Appropriate Assessment Screening Report submitted with the application and the Inspector's report and submissions on file. In completing the screening exercise, the Board adopted the report of the Inspector and concluded that, by itself or in combination with other development in the vicinity, the proposed development would not be likely to have a significant effect on any European Site in view of the sites' conservation objectives, and that a Stage 2 Appropriate Assessment (and submission of a Natura impact statement) is not, therefore, required.

### **Reasons and Considerations**

Having regard to the residential zoning objective for the site as set out in the current Kanturk Mallow Municipal District Local Area Plan 2017, to the planning history of the site, it is considered that, subject to compliance with the conditions set out below,

the proposed development would not seriously injure the amenities of the area or of property in the vicinity would be acceptable in terms of traffic safety and would not increase the risk of flooding. The proposed development, would, therefore, be in accordance with the proper planning and sustainable development.

### **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 submitted on the 7<sup>th</sup> day of December 2016, 25<sup>th</sup> day of January 2017, 31<sup>st</sup> day of October 2017 and 8<sup>th</sup> day of January 2018, 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 on site, the developer shall submit details of the mitigation measures to be put in place to prevent risk of flooding to the south west of the site including house Nos. 195 and 196 as set out in the CFRAM Spa Glen flood extent map. The mitigation measures shall include the provision of earth berms and landscaping, or otherwise as agreed in writing with the Planning Authority. A revised site plan with the necessary alterations shown thereon shall be submitted to the planning authority for written agreement prior to commencement of development.

**Reason:** To prevent flooding and in the interest of the proper planning and sustainable development of the area.

3. Prior to the commencement development revised plans and details with the following amendments delineated thereon shall be submitted to the planning authority for written agreement.

- (i) Repositioning of the creche building closer to the public road to the north.
- (ii) Additional window openings on the north elevation fronting onto the public road.

**Reason:** In the interest of the visual amenities of the area.

4. This grant of permission shall not be construed as a grant of permission for the carrying out of works to the Glaise Stream and Spa Stream which shall be the subject of a separate planning application, subsequent to any necessary approval under the Arterial Drainage Act 1945 and subsequent.

**Reason:** To prevent flooding and in the interest of the proper planning and sustainable development of the area

5. (a) The development shall be carried out on a phased basis. The first phase shall consist of not more than 50 dwelling units and creche, together with their associated site development works. 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.

(b) Work on any subsequent phases shall not commence until such time as the written agreement of the planning authority is given to commence the next phase. Details of further phases shall be as 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. Details of the materials, colours and textures of all the external finishes to the proposed dwellings shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development

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

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.

8. 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.

9. 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 house.

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

10. 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.

11. All screen walls shall be two metres in height above ground level, constructed in concrete block, and shall be capped, and rendered on both sides in a finish that matches the external finish of the dwellings.

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

12. All rear gardens shall be bounded with 1.8 metre high concrete block walls, suitably capped and rendered, on both sides, or by 1.8 metre high timber fences with concrete posts.

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

13. Proposals for an estate/street name, house 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 numbers, shall be provided in accordance with the agreed scheme. 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.

14. Details of proposed fencing to open watercourses within the site shall be submitted to the planning authority for written agreement prior to commencement of development:

**Reason:** In the interest of public safety

15. The areas of public open space shown on the lodged plans shall be reserved for such use. These areas shall be soiled, seeded, and landscaped in accordance with the landscaping scheme submitted to the planning authority on the 31<sup>st</sup> day of October, 2017. This work shall be

completed before any of the dwellings are made available for occupation and shall be maintained as public open space by the developer until taken in charge by the local authority.

**Reason:** In order to ensure the satisfactory development of the public open space areas, and their continued use for this purpose.

16. 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.

17. 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 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.

18. 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.

19. A final, detailed, site specific Construction and Environmental Management Plan shall be submitted, for the written agreement of the planning authority at least 5 weeks in advance of site clearance and site works commencing.

**Reason:** To protect the environment during the construction phase and also to avoid impacts on water quality, fisheries, sustainable drainage, and flooding.

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 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 Bord Pleanála for determination.

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

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.

22. The developer shall pay the sum of € 45,000 (forty five thousand euro) (updated at the time of payment in accordance with changes in the Wholesale Price Index – Building and Construction (Capital Goods), published by the Central Statistics Office), to the planning authority as a special contribution under section 48 (2)(c) of the Planning and Development Act 2000, in respect of upgrade works to the culvert of the Glaise Stream under the Ballyvinitter Road and associated provision of a trash screen to the north of the site. This contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate. The application of indexation required by this condition 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.



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

23. The developer shall pay the sum of €28,808 (twenty eight thousand, eight hundred and eight euro) (updated at the time of payment in accordance with changes in the Wholesale Price Index – Building and Construction (Capital Goods), published by the Central Statistics Office), to the planning authority as a special contribution under section 48 (2)(c) of the Planning and Development Act 2000, in respect of Spa Glen /N72 Junction also known locally as Ballylough Cross, for the purpose of the improvement to sightlines. This contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate. The application of indexation required by this condition 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.

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

**Board Member**

**Date:** 10/09/2018

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Michelle Fagan