



An  
Bord  
Pleanála

## Board Order ABP-301429-18

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### Planning and Development Acts 2000 to 2017

#### Planning Authority: Cork County Council

**Application** for permission under section 4 of the Planning and Development (Housing) and Residential Tenancies Act 2016, in accordance with plans and particulars, lodged with An Bord Pleanála on the 17<sup>th</sup> day of April 2018 by Greenstone Properties Limited care of McCutcheon Halley, 6 Joyce House, Barrack Square, Ballincollig, Co. Cork.

#### **Proposed Development:**

A five-year planning permission for a strategic housing development at Hazel Brooke, Spaglen (townland), Mallow, Co. Cork.

The development will consist of:

- (a) The construction of 149 number residential units to include 105 number dwelling houses (comprising a mix of two, three and four-bed, detached, semi-detached and terraced/town houses); 44 number apartments (comprising a mix of two and three-bed duplexes/apartments in nine number three storey blocks); and one number creche;
- (b) The provision of landscaping and amenity areas to include three number local play areas and three number neighbourhood play areas;

- (c) All associated ancillary development to include the provision of improved pedestrian facilities including the installation of dropped kerbs and tactile paving, new pedestrian crossings and the realignment and improvement of the Spa Road junction and footpaths to the west, lighting, drainage, boundary treatments and bicycle and car parking and bin storage.

## **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.**

## **Matters Considered**

In making its decision, the Board had regard to those matters to which, by virtue of the Planning and Development Acts and Regulations made thereunder, it was required to have regard. Such matters included any submissions and observations received by it in accordance with statutory provisions.

## Reasons and Considerations

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

- (a) the site's location within the boundaries of Mallow as defined in the Kanturk Mallow Municipal District Local Area Plan 2017,
- (b) the site's proximity to the town centre and the proposal to provide footpath and junction upgrades,
- (c) the nature, scale and design of the proposed development,
- (d) the pattern of existing and permitted development in the area,
- (e) the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas, and the accompanying Urban Design Manual – A Best Practice Guide, issued by the Department of the Environment, Heritage and Local Government in May 2009,
- (f) the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities, issued by the Department of Housing, Planning and Local Government in March 2018,
- (g) the Design Manual for Urban Roads and Streets issued by the Department of Transport, Tourism and Sport and the Department of the Environment, Community and Local Government in March 2013,
- (h) the submissions and observations received, and
- (i) the report of the Inspector.

It is considered that, subject to compliance with the conditions set out below that the proposed development would not seriously injure the residential or visual amenities of the area or of property in the vicinity, would respect the existing character of the area, and would be acceptable in terms of traffic and pedestrian safety. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## **Appropriate Assessment Screening**

The Board completed an Appropriate Assessment Screening exercise in relation to the potential effects of the proposed development on designated European Sites, taking into account the nature, scale and location of the proposed development within a zoned and serviced urban area, the Screening Assessment 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 is not, therefore, required.

## **Environmental Impact Assessment Screening**

The Board completed an environmental impact assessment screening of the proposed development and considered that the Environmental Impact Assessment Report (EIAR) Screening report submitted by the applicant, identifies and describes adequately the direct, indirect, secondary, and cumulative effects of the proposed development on the environment. The Board concluded that the proposed development, having regard to its nature and scale, would not be likely to have significant effects on the environment. The Board decided, therefore, that an environmental impact assessment report for the proposed development was not necessary in this case.

## 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 development shall be carried out and completed in accordance with the agreed particulars. In default of agreement, the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

**Reason:** In the interest of clarity.

2. The proposed development shall be modified as follows:
  - (a) All rear gardens of houses shall be bounded on all sides with concrete block walls, which shall be a minimum of 1.8 metres high, and shall be suitably capped and rendered on both sides, except where bounding public open spaces or roads, when the walls shall be two metres in height. Post and timber fences shall not be used for any rear garden boundaries.
  - (b) All windows serving bathrooms/WCs shall be provided with frosted/opaque glass.

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 interests of residential amenity and to ensure the provision of durable boundary treatment.

3. The development shall be carried out in accordance with a phasing plan that shall be agreed with the planning authority prior to the commencement of development. In particular:
  - (a) the plan shall stipulate that none of the authorised dwellings may be made available by the developer for occupation until the proposed footpath and junction improvements on the Spaglen (L5331) and Ballyvinitter public road as shown on Pedestrian Access 01 drawing GS-PL-D02, have been constructed to the satisfaction of the planning authority.
  - (b) the plan shall stipulate that the childcare facility shall be constructed and completed in the first phase of development.

**Reason:** To ensure the timely and orderly development of the site for housing with the required supporting infrastructure.

4. Secure and sheltered bicycle parking shall be provided for the authorised apartments and childcare facility which shall be conveniently situated near their entrances in a supervised location. Revised plans showing compliance with this condition shall be submitted to and agreed in writing with the planning authority prior to the commencement of development.

**Reason:** To provide adequate bicycle parking in line with the applicable standards, including that set out in section 4.17 of the Sustainable Urban Housing: Design Standards for New Apartments.

5. Provision shall be made for a cycleway within the development between existing and proposed development to the north east and south west. Details of such provision, including construction and demarcation, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interest of sustainable transportation.

6. A comprehensive boundary treatment and landscaping scheme shall be submitted to and agreed in writing with the planning authority, prior to commencement of development. This scheme shall include the following:
- (a) details of all proposed hard surface finishes, including samples of proposed paving slabs/materials for footpaths, kerbing and road surfaces within the development;
  - (b) details of hard surface finishes and paving materials in the vicinity of the South Caherduggan River, together with a management plan to ensure the protection of the semi-mature woodland and riparian corridor during construction;
  - (c) proposed locations of street trees and additional street trees at appropriate intervals, other trees and other landscape planting in the development, including details of proposed species and settings;
  - (d) details of proposed play equipment and street furniture, including bollards, lighting fixtures and seating;
  - (e) details of proposed boundary treatments at the perimeter of the site and specifically at the boundary with the N72 National Road, including heights, materials and finishes.

The boundary treatment and landscaping shall be carried out in accordance with the agreed scheme.

**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 and to ensure a proper standard of development.

8. (a) The internal road network serving the proposed development, including turning bays, junctions, sight distances, footpaths and kerbs shall be in accordance with the detailed requirements of the planning authority for such works, and shall comply in all respects with the provisions of the Design Manual for Urban Roads and Streets.
- (b) To facilitate connectivity and permeability, the finished surface of all roads and footpaths that are shown as future possible access shall meet up to site boundaries without the provision of a grass verge or ransom strip.

**Reason:** In the interest of pedestrian and traffic safety, and in order to comply with national policy in this regard.

9. The proposed development, including all roads, footpaths, cycle paths, verges, open spaces (as shown on drawing number 16225/P/010) as permitted under this order, and as amended by the conditions of this permission, shall be carried out and completed in accordance with the “taking-in-charge” standards of the planning authority. The entire development, including all open spaces with the exception of the communal areas directly associated with the apartment block, shall be maintained by the developer until such time as it is taken in charge by the planning authority and shall not be operated or maintained by a private management company. The communal areas directly associated with the apartment block, shall be maintained by a private management company, details of which shall be submitted to, and agreed in writing with, the planning authority prior to the making available by the developer for occupation of the apartment block.

**Reason:** In order to comply with national policy in relation to the maintenance and management of residential estates, and to ensure that the housing part of the overall development, when completed, and all of the open spaces, can be taken in charge by the planning authority.



10. Prior to commencement of development, the developer shall submit to and agree in writing with the planning authority a properly constituted Owners' Management Company. Membership of this company shall be compulsory for all purchasers of property in the proposed development. Confirmation that this company has been set up shall be submitted to the planning authority prior to the occupation of the first residential unit.

**Reason:** To provide for the satisfactory completion and maintenance of the development in the interest of residential amenity.

11. 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. Such lighting shall be provided prior to the making available for occupation of any unit.

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

12. Proposals for an estate/street name, unit 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/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 place names for new residential areas.

13. 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.

14. 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.

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

15. 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.

16. Site development and building works shall be carried out only between 0800 to 1800 hours 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 amenities of property in the vicinity.

17. Prior to the commencement of development, the developer shall submit a construction and demolition waste management plan to the planning authority for agreement prepared in accordance with the Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects published by the Department of the Environment, Heritage and Local Government in July 2006. This shall include details of waste to be generated during site clearance and construction phases and details of the methods and locations to be employed for the prevention, minimisation, recovery and disposal of this material.

**Reason:** In the interest of orderly development and sustainable waste management.

18. The construction of the 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 development, noise management measures, construction traffic management plan and off-site disposal of construction/demolition waste. As well as the submission of an Alien Species Management Plan.

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

19. 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.

20. 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.

21. The developer shall pay the sum of € 41,273 (forty one thousand, two hundred and seventy three euro) (€277 x 149 number units)(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 works proposed to be carried out by the Local Authority to the SpaGlen /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.

