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## **Planning and Development Acts 2000 to 2019**

### **Planning Authority: Kildare 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 26th day of July 2019 by Ballymount Properties Limited care of John Spain Associates, 39 Fitzwilliam Place, Dublin.

#### **Proposed Development:**

A planning permission for a strategic housing development at the former Magee Barracks Site, Hospital Street (R445), Kildare Town, County Kildare. The site is bound to the south by Hospital Street (R445), and to the east, west and north by existing residential areas.

The proposed development will consist of the demolition of 17 number existing buildings (including a range of former barracks buildings, the Officers' Mess building and water tower structure) with a gross floor area of 16,320 square metres, and the construction of a development comprising of 375 number residential units, a neighbourhood centre comprising of three number single-storey retail units with a gross floor area of 130 square metres, 105 square metres and 100 square metres respectively, a café (including gallery / exhibition area at mezzanine level) with a gross floor area of 300 square metres, a two-storey childcare facility with a gross floor area of 680 square metres and associated play area, all internal roads, car parking, pedestrian and cycle paths, public open space, and all associated site and infrastructural works on an application site of circa 11.35 hectares.

The 375 number residential units proposed consist of the following:

- 76 number three-bed semi-detached houses;
- 42 number three-bed terrace houses;
- 60 number four-bed semi-detached houses;
- 7 number four-bed detached houses;
- 16 number one-bed apartment units within the duplex blocks;
- 34 number two-bed apartment units within the duplex blocks;
- 18 number three-bed apartment units within the duplex blocks;
- 30 number one-bed apartment units within the apartment blocks, and
- 92 number two-bed apartment units within the apartment blocks.

The houses are two to three storeys in height, the duplex blocks are two to three storeys in height and the apartment blocks are four to five storeys in height over basement car park. The associated site and infrastructural works include foul and surface / storm water drainage, attenuation tanks, 639 number car parking spaces (comprising 560 number spaces for the residential units, 51 number visitor spaces, and 28 number spaces to serve the proposed childcare facility, retail, and café units), public open space measuring circa 1.80 hectares, bin and bike stores, three number electricity substations, landscaping, boundary walls, railings and fences.

A new signalised road junction is proposed onto Hospital Street, providing access to the proposed development and also to adjacent sites to the west and east. Road works are also proposed to Hospital Street (R445), including pedestrian crossings, provision of cycle lanes, upgrades to footpaths, signage, road markings and traffic signalling.

## **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 location of the site on lands with a zoning objective for regeneration and policy provisions in respect of residential development and mixed use in the Kildare Town Local Area Plan 2012-2018;
- (b) the nature, scale and design of the proposed development which is consistent with the provisions of the Kildare County Development Plan 2017-2023;
- (c) the Rebuilding Ireland Action Plan for Housing and Homelessness 2016;
- (d) the Guidelines for Sustainable Residential Developments 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;
- (e) the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities issued by the Department of the Housing, Planning and Local Government in March 2018;
- (f) the Design Manual for Urban Roads and Streets (DMURS) issued by the Department of Transport, Tourism and Sport and the Department of the Environment, Community and Local Government in March 2013;
- (g) the nature, scale and design of the proposed development;
- (h) the availability in the area of a wide range of social, community and transport infrastructure;
- (i) the pattern of existing and permitted development in the area;
- (j) the submissions and observations received, and
- (k) the report of the Inspector.

## **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 site, the Information for Screening for Appropriate Assessment submitted with the application, 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 conservation objectives of such sites, and that a Stage 2 Appropriate Assessment is not, therefore, required.

## **Environmental Impact Assessment**

The Board completed an environmental impact assessment of the proposed development, taking into account:

- (a) the nature, scale and extent of the proposed development;
- (b) the environmental impact assessment report and associated documentation submitted in support of the planning application;
- (c) the submissions from the planning authority, the observers and the prescribed bodies in the course of the application, and
- (d) the Inspector's report.

The Board considered that the environmental impact assessment report, supported by the documentation submitted by the applicant, adequately identifies and describes the direct, indirect, secondary and cumulative effects of the proposed development on the environment.

The Board agreed with the examination, set out in the Inspector's report, of the information contained in the environmental impact assessment report and associated documentation submitted by the applicant and submissions made in the course of the planning application.

The Board considered and agreed with the Inspector's reasoned conclusions, that the main significant direct and indirect effects of the proposed development on the environment are, and would be mitigated, as follows:

- (a) A positive impact with regard to population and material assets due to the increase in the housing stock that would be available in the town;
- (b) Landscape and visual impacts, which will be mitigated by the design and landscaping proposal which will reflect and increase awareness of the site's military heritage; planting and tree/planting plans and monitoring;
- (c) Traffic and transportation impacts, which will be mitigated by the phasing of the development and by the completion of a package of local road improvement measures;
- (d) Land and soils impacts, which will be mitigated by re-use of soil and sub-soil in the development, limited soil stripping, measures to control sediment in surface runoff, and construction management measures;
- (e) Water impacts, which will be mitigated by further investigations for buried waste, construction management measures and the storage of waste fuels and materials within the scheme;
- (f) Biodiversity impacts, which will be mitigated by construction management measures, protection of trees to be retained, landscaping, invasive species management, measures to avoid disturbance to bats, and provision of bat boxes;
- (g) Cultural, archaeological and architectural heritage impacts, which will be mitigated by design and landscaping which reflects and increases awareness of the site's military heritage, pre-construction surveys and site investigations, and monitoring of ground works;
- (h) Noise and vibration impacts during construction which will be mitigated by environmental management measures including management of vehicles and plant; sound reduction measures and monitoring of typical noise levels, and

- (i) Impacts on air quality and climate during construction which will be mitigated by a dust management plan including a dust monitoring programme.

The Board completed an environmental impact assessment in relation to the proposed development and concluded that, subject to the implementation of the mitigation measures set out in the environmental impact assessment report, and subject to compliance with the conditions set out below, the effects on the environment of the proposed development, by itself and in combination with other development in the vicinity, would be acceptable. In doing so, the Board adopted the report and conclusions of the Inspector.

### **Conclusions on Proper Planning and Sustainable Development**

The Board considered that, subject to compliance with the conditions set out below, the proposed development would constitute an acceptable residential density in this suburban location, would not seriously injure the residential or visual amenity of the area, would be acceptable in terms of urban design, height and quantum of development, and would be acceptable in terms of pedestrian and traffic safety. 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 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. Mitigation and monitoring measures outlined in the plans and particulars, including the Environmental Impact Assessment Report submitted with this application as set out in Chapter 15 of the Environmental Impact Assessment Report 'Summary of Mitigation Measures', shall be carried out in full, except where otherwise required by conditions attached to this permission. Prior to commencement of development the applicant shall confirm in writing the successful eradication and/or removal of any invasive species on the site.

**Reason:** In the interest of protecting the environment and in the interest of public health.

3. The phasing plan shall be amended as follows:
  - (a) Phase A shall include all the apartment units and associated works identified as Phase D, and an additional 60 number units and associated road infrastructure from Phase B and Coolmoney Gardens;
  - (b) Phase B shall comprise the remaining 32 number units, connectivity to the school and the facilitation of connectivity to Ruanbeg, Henry Howards Gardens, and the spine road up to the boundary with Phase 2 of the overall land holding;

- (c) Phase C shall be as submitted; and
- (d) Phase D is to be incorporated into Phase A (as above).

The developer shall submit a revised phasing plan, as prescribed in this condition, in writing to the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the revised phasing plan.

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

- 4. Proposals for a development name, commercial unit identification and numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all such names and numbering shall be provided in accordance with the agreed scheme.

**Reason:** In the interest of urban legibility.

- 5. Prior to commencement of development the applicant shall submit all details for the treatment and management of the wayleave/right of way along the east of the site at the rear of the dwellings at Rowanville, which shall include a gated access, for the written approval of the planning authority.

The internal road network serving the proposed development, including turning bays, junctions parking areas, footpaths and kerbs, access road to the service area including the junction at the development site/ Hospital Street (R445), and the underground car park shall be in accordance with the detailed standards of the planning authority for such works.

**Reason:** In the interests of amenity and of traffic and pedestrian safety.



6. (a) The following requirements in terms of traffic, transportation and mobility shall be incorporated, and where required revised drawings/reports showing compliance with these requirements shall be submitted to and agreed in writing with the planning authority prior to commencement of development:
- (i) Final details of roads and traffic arrangements serving the site (including signage) shall be agreed and shall include the integration of all works at the junction of the development /Hospital Road with any local authority works along the R445.
  - (ii) Full details of development works at the interface with the public realm at Magee Square. All works to public roads/footpaths shall be completed to taking in charge standards and shall be to the satisfaction of the planning authority.
  - (iii) A Stage 2 Quality Audit (including Road Safety Audit, Access Audit, Cycle Audit and Walking Audit) that accords to the Design Manual for Urban Roads and Streets and Transport Infrastructure Ireland standards.
  - (iv) Full details of cycle parking facilities with provisions for direct and unobstructed access to all cycle parking spaces.
  - (v) Full details of the management of the pedestrian access into the adjoining school site shall be submitted for the written approval of the planning authority.
- (b) Within six months of substantial completion of the development a Stage 3 Quality Audit (including Road Safety Audit, Access Audit, Cycle Audit and Walking Audit), of the constructed development shall be submitted to the planning authority for approval.
- (c) At least one car parking space shall be allocated to each residential unit within the scheme. The allotted car parking spaces shall be for occupants of the residential units and shall be sold in conjunction with the units and not be sold or let separately from the residential

development to avoid non-take-up by occupants. Prior to the commencement of development, the applicant shall submit a layout plan for the written agreement of the planning authority showing which parking spaces are allocated to individual numbered units and to visitor parking.

- (d) All car parking spaces shall be ducted for future electric vehicle charging points.
- (e) Clearly designated spaces for car share use shall be provided.

In default of agreement, the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

**Reason:** In the interests of traffic, cyclist and pedestrian safety, sustainable travel and orderly development.

7. The developer shall enter into water and/or waste water connection agreement(s) with Irish Water, prior to commencement of development.

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 and all surface water shall be treated within the site.

**Reason:** In the interest of public health.

8. A secure outdoor play area shall be provided for the use of children attending the childcare facility, details of which 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 safety.

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 shrub which shall comprise predominantly native species such as mountain ash, birch, willow, sycamore, pine, oak, hawthorn, holly, hazel, beech or alder which shall not include prunus species;
    - (ii) Details of screen planting which shall not include cupressocyparis x leylandii;
    - (iii) Details of roadside/street planting which shall not include prunus species;
    - (iv) Hard landscaping works, specifying surfacing materials, furniture, including play equipment, and finished levels;
    - (v) Details of all formal and informal play/ toddler areas within the scheme and the provision of children's play facilities which shall comply with the standards of the "Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities" as a minimum;
    - (vi) Integration and provision of play facilities for older children/ young adults;
    - (vii) Details of the interface and landscaping finish between both Magee Terrace and Runabeg Drive, including the implementation of Option B pedestrian connectivity into Magee Terrace and open plan landscaping for Runabeg as per the plans and particulars.
  - (b) Specifications for mounding, levelling, cultivation and other operations associated with plant and grass establishment.

(c) A timescale for implementation including details of phasing.

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 local 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.

10. Details of the road network to be used by construction traffic and by the long-term maintenance of the wayleave/ right of way along the east of the site, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

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

11. Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be 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.

The plan 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 in accordance with the provision of the Waste Management Plan for the Region in which the site is situated.

The plan shall include details for the appropriate disposal of the invasive species which has been treated within the site and the prevention of any increase in vermin on the site, or in the vicinity of the site, during construction.

**Reason:** In the interest of sustainable waste management.

12. 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.

13. Prior to commencement of development, the developer shall submit to and agree in writing with the planning authority, a properly constituted Owners' Management Company for the management of the apartment blocks and the management of Leitrim Gardens open space with the duplex units. This shall include a layout map of the permitted development showing the areas to be taken in charge and those areas to be maintained by the Owner's Management Company. Membership of this company shall be compulsory for all purchasers of apartments and duplex units in the proposed development. Confirmation that the 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.

14. The developer shall facilitate the recording of those existing military building on the site. In this regard, the developer submit photographic copies to the planning authority at least four weeks in advance of the commencement of development works on the site. Documentation associated with the photographic recording of the military buildings shall be retained and integrated into the design of the proposed museum/ café in the neighbourhood centre.

**Reason:** In order to conserve the architectural heritage of the site.

15. 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 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.

16. Site development and building works shall be carried out only between 0700 to 1900 hours Mondays to Fridays inclusive, between 0700 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.

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 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.

18. 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.

19. 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.

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**Paul Hyde**

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

**Dated this      day of                                  2019**