

An  
Coimisiún  
Pleanála

Commission Order  
ABP-321927-25

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**Planning and Development Acts 2000 to 2024**

**Planning Authority: Cork County Council**

**Planning Register Reference Number: 244519**

**Appeal** by Frank Heffernan and others care of 7 Aldworth Heights, Saint Joseph's Road, Mallow, County Cork against the decision made on the 10<sup>th</sup> day of February, 2025 by Cork County Council to grant permission, subject to conditions, to Reside (Castlepark) Limited care of McCutcheon Halley Planning Consultants of 6 Joyce House, Barrack Square, Ballincollig, County Cork for the proposed development.

**Proposed Development:** The construction of 99 number residential units (comprising 95 number two, three and four bedroom semi-detached houses and townhouses, and four number one and three bedroom duplex/apartment units) creche, and all associated ancillary site development works including vehicular access, parking, footpaths, drainage, amenity areas, and a wastewater treatment plant at Castlepark, Castlelands (Townland), Saint Joseph's Road, Mallow, County Cork as revised by the further public notices received by the planning authority on the 6<sup>th</sup> day of December, 2024, reducing the number of residential units to 98.

## **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 existing pattern of residential development in the area, to the location and setting of the site within the designated settlement boundary of Mallow, which is identified as a 'Key Town' according to the Core Strategy and Settlement Policy as set out in the Cork County Development Plan 2022-2028, to the 'Residential (RE)' and 'Existing Residential/Mixed Residential and Other Uses (ER)' zoning objectives of the site which consider residential development an appropriate use, to the proximity of the site to the town centre and to the level and quality of existing pedestrian connections to same, and to the design and layout of the proposed development including the extent and quality of open space provision, it is considered that, subject to compliance with the conditions set out below, the proposed development would be acceptable in terms of traffic safety and convenience, would not result in a traffic hazard, would not seriously injure the residential amenities of the area, would provide an acceptable standard of amenity for future residents and would be appropriate in terms of design, scale and layout. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

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 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).

**Appropriate Assessment Screening:**

The Commission considered the Natura Impact Statement submitted with the application, and all the other relevant submissions on file, and carried out an Appropriate Assessment in relation to the potential effects of the proposed development on any relevant European sites. The Commission agreed with the screening assessment and conclusion carried out in the Inspector's Report that the Blackwater River (Cork/Waterford) Special Area of Conservation (Site code 002170) is the only European Site in respect of which the proposed development has the potential to have a significant effect in view of the Conservation Objectives for the site and that Stage 2 Appropriate Assessment is, therefore, required.

**Appropriate Assessment:**

The Commission considered the Natura Impact Statement, and all the other relevant submissions on file, and carried out an Appropriate Assessment of the implications of the proposed development on the Blackwater River (Cork/Waterford) Special Area of Conservation (Site code 002170) in view of the sites Conservation Objectives. The Commission considered that the information before it was sufficient to undertake a complete assessment of all aspects of the proposed development in relation to the site's Conservation Objectives using the best scientific knowledge in the field. In completing the assessment, the Commission considered, in particular, the following:

- (i) the site-specific Conservation Objectives for the European Site,

- (ii) the likely direct and indirect impacts arising from the proposed development, both individually or in combination with other plans or projects, and
- (iii) mitigation measures which are included as part of the current proposal.

In completing the Appropriate Assessment, the Commission accepted and adopted the Appropriate Assessment carried out by the Inspector in respect of the potential effects of the proposed development on the aforementioned European Site.

In overall conclusion, the Commission was satisfied that the proposed development would not adversely affect the integrity of the European Site in view of the site's Conservation Objectives and that there is no reasonable scientific doubt as to the absence of such effects.

#### **Environmental Impact Assessment Screening:**

The Commission completed an Environmental Impact Assessment Preliminary Examination of the project and considered that the documents submitted by the applicant identify and describe adequately the direct, indirect, and cumulative effects of the project on the environment. In completing their assessment the Commission had regard to:

- (a) The nature and scale of the project, which is below the thresholds in respect of Class 10(b)(i) and Class 10(b)(iv) of the Planning and Development Regulations 2001, as amended.
- (b) The location of the site on lands zoned lands (Residential), and other relevant policies and objectives in the Cork County Development Plan 2022- 2028.

- (c) The nature of the site on undeveloped ground and its location in an urban area which is served by public services and infrastructure.
- (d) The pattern of existing and permitted development in the area.
- (e) The planning history at the site and within the area.
- (f) The features and measures proposed by the applicant envisaged to avoid or prevent what might otherwise be significant effects on the environment, including those identified in the Ecological Impact Assessment and other reports.

In so doing, the Commission concluded that by reason of the nature, scale and location of the proposed development, the development would not be likely to have significant effects on the environment and that an Environmental Impact Assessment and the preparation of an Environmental Impact Assessment Report would not, therefore, be required.

## **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 received by the planning authority on the 11<sup>th</sup> day of October 2024, 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. The mitigation measures contained in the submitted Natura Impact Statement (NIS) shall be implemented in full.

**Reason:** To protect the integrity of European Sites.

3. 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 and to ensure an appropriate high standard of development.

4. The proposed development shall be amended as follows:
  - (a) The proposed area of open space between unit numbers 3-11 shall be redesigned in accordance with the detailed requirements of the planning authority.
  - (b) The temporary turning head to the northeast of unit number 24 shall be relocated closer to dwelling number 24.

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 visual and residential amenity.



5. (a) 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 11<sup>th</sup> day of October 2024. This work shall be completed before any of the dwellings are made available for occupation unless otherwise agreed in writing with the planning authority and shall be maintained as public open space by the developer until taken in charge by the local authority.
- (b) 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.
- (c) All mitigation measures contained in the submitted Ecological Impact Assessment, received by the planning authority on the 11<sup>th</sup> day of October 2024, shall be implemented in full.

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

6. The 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 11<sup>th</sup> day of October 2024. The specific measures detailed in Section 6 of the MMP shall be implemented in full upon first occupation of the development. The developer shall undertake an annual monitoring exercise to the satisfaction of the planning authority for the first three years following first occupation of the development 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.

7. The disposal of surface water shall comply with the requirements of the planning authority for such works and services.

**Reason:** To prevent flooding and in the interest of sustainable drainage.

8. Prior to the commencement of development, the developer shall enter into a Connection Agreement with Uisce Éireann to provide for a service connection to the public water supply and wastewater collection network.

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



9. (a) All foul sewage and soiled water shall be discharged to the public foul sewer.
- (b) Only clean, uncontaminated storm water shall be discharged to the surface water drainage system.

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

10. 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 the commencement of development. The scheme shall include lighting along pedestrian routes through open spaces. 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.

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 interests of visual and residential amenity.

12. The internal road network serving the proposed development including turning bays, junctions, parking areas, footpaths, and kerbs shall comply with the detailed construction standards of the planning authority for such works and design standards outlined in Design Manual for Urban Roads and Streets (DMURS) 2019 as amended.

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

13. Proposals for an estate/street name, house/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/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.

14. All mitigation measures in relation to archaeology as set out in the Archaeological Impact Assessment, received by the planning authority on the 26<sup>th</sup> day of March 2024, shall be implemented in full. The planning authority and the National Monuments Service shall be furnished with a final archaeological report describing the results of any archaeological investigative work/excavation required, following the completion of all archaeological work on site and any necessary post-excavation specialist analysis. All resulting and associated archaeological costs shall be borne by the developer.

**Reason:** To ensure the continued preservation either in situ or by record of places, caves, sites, features or other objects of archaeological interest.

15. Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Friday 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.

16. The development hereby permitted shall be carried out and completed at least to the construction standards as set out in the planning authority's Taking In Charge Standards. In the absence of specific local standards, the standards as set out in the 'Recommendations for Site Development Works for Housing Areas' issued by the Department of the Environment and Local Government in November 1998. Following completion, the development shall be maintained by the developer, in compliance with these standards, until taken in charge by the planning authority.

**Reason:** To ensure that the development is carried out and completed to an acceptable standard of construction.

17. A Construction and Environmental Management Plan (CEMP) shall be submitted to and agreed in writing with the planning authority prior to the commencement of development. The CEMP shall include but not be limited to construction phase controls for dust, noise and vibration, waste management, protection of archaeological assets, soils, groundwaters, and surface waters, site housekeeping, signage, emergency response planning, site environmental policy, and project roles and responsibilities.

**Reason:** In the interest of environmental protection, residential amenities, public health and safety.

18. Prior to commencement of development, a Resource Waste Management Plan (RWMP) as set out in the Environmental Protection Agency's Best Practice Guidelines for the Preparation of Resource and Waste Management Plans for Construction and Demolition Projects (2021) shall be prepared and submitted to the planning authority for written agreement. The RWMP shall include specific proposals as to how the RWMP will be measured and monitored for effectiveness. 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 reducing waste and encouraging recycling.

19. 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.

20. Not more than 50% of residential units shall be made available for occupation before completion of the childcare facility to an operational standard unless the developer can demonstrate to the written satisfaction of the planning authority that a childcare facility is not needed (at this time).

**Reason:** To ensure that childcare facilities are provided in association with residential units, in the interest of residential amenity.

21. 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 houses 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. 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 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.

23. (a) Prior to the commencement of any unit 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 unit), pursuant to Section 47 of the Planning and Development Act, 2000, that restricts all relevant 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 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.

24. 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 Coimisiún Pleanála for determination.

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

25. 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.

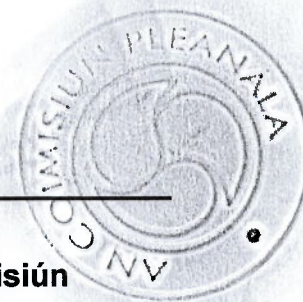
26. The developer shall pay a financial contribution to the planning authority as a special contribution under Section 48(2)(c) of the Planning and Development Act 2000, as amended, in respect of road improvement works on Saint Joseph's Road (L1220-25) between the construction site entrance and the junction with the N72 (Olivers Cross) which benefits the proposed development. The amount of the contribution 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 for determination. The contribution shall be paid prior to commencement of development or in such phased payments as may be agreed prior to the commencement of the development and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the terms of payment of this financial contribution shall be agreed in writing between the planning authority and the developer.

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



Mick Long

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



Dated this 24<sup>th</sup> day of June 2025.