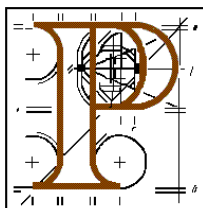


**An Bord Pleanála**



**Inspector's Report**

**Proposed Development:** Permission for the construction of 31 dwellings comprising 15 no detached dwellings and 16no semi-detached dwellings, landscaping works, access, internal roads, adjacent infrastructure works and all ancillary site development works on lands at Cleve Hill, Blackrock Road, Cork.

**Planning Application**

Planning Authority: Cork City Council  
Planning Authority Reg. Ref.: 15/36526  
Applicant: Targeted Investment Opportunities PLC  
Type of application: Permission  
Planning Authority Decision: Grant permission

**Planning Appeal**

Appellants: Des Murphy  
David Mullane & Others  
Type of appeal: Third Party against permission  
Observers: None  
Date of Site Inspection: 24<sup>th</sup> May, 2016.  
Inspector: **A. Considine**

## **1.0 THE SITE**

- 1.1 The site is located to the east of Cork City Centre and to the south of the River Lee in the area of Cleve Hill. Access to the site is from the Blackrock Road and Monaghans Road is to the north of the site. The site comprises a green field site and lies immediately adjacent to existing residential estates to the south and east. To the west and north of the site, and accessed off Monaghans Road, there are a number of commercial and office developments.
- 1.2 The surrounding area is generally residential and it is proposed that the development will be accessed from the south only. The existing residential developments immediately adjacent to the site are accessed off the Blackrock Road and the proposed development will use the existing small estate road network. The existing Cleve Hill residential development comprises 20 two storey houses, detached and semi-detached. The site is currently undeveloped and has a large number of mature trees and the applicant has advised that these will be retained where possible. The site levels provide for a slope from the south to north with a variation of levels from +20.5m to +3.5m. The site has a stated area of 2.72ha as indicated in the submitted planning application form, but the Board will note that this area is reduced to 2.58ha as per the planning report submitted with the application. The difference is likely due to the inclusion of the existing Cleve Hill road network. The Board should note that the site was inaccessible on the date of my inspection.

## **2.0 PROPOSED DEVELOPMENT**

- 2.1 The application to Cork County Council was for the construction of 31 dwellings comprising 15 no detached dwellings and 16 no semi-detached dwellings, landscaping works, access, internal roads, adjacent infrastructure works and all ancillary site development works on lands at Cleve Hill, Blackrock Road, Cork.
- 2.2 The development proposes 31 two storey houses with 4 house types proposed, primarily 4 bed units, with two semi-detached units having 3 beds. All of the proposed houses provide for attics with a full floor to ceiling height provided. The proposed finishes include a select blue / black roof slate and a painted rendered finish to the external walls with select brickwork to detail. It is also proposed to use selected uPVC / aluminium windows with uPVC fascia and soffit and rainwater goods.

Each house is proposed to be provided with 2 on site car parking spaces. The designs also propose limestone cills / surrounds to front window elevations and solar / PV panels to later detail.

2.3 There are six types of houses proposed, as follows:

<b>Type</b>	<b>Unit Type</b>	<b>No of Units</b>	<b>Plot Nos</b>	<b>M<sup>2</sup></b>
A	Detached 4 bed	6	1-6	208m <sup>2</sup>
A1	Detached 4 bed	9	7-10, 17, 28-31	208m <sup>2</sup>
B	Semi-detached 4 bed	13	11-16, 18-21, 25-27	142m <sup>2</sup>
B1	Semi-detached 4 bed	1	24	168m <sup>2</sup>
C	Semi-detached 3 bed	1	22	113.6m <sup>2</sup>
D	Semi-detached 3 bed	1	23	110.8m <sup>2</sup>

Each house will provide accommodation over two floors with attic space. At ground floor level, the house types A and A1 will provide for a large kitchen / diner / living area with separate living room and separate dining room, utility room and WC. The first floor will provide for four bedrooms, one ensuite and a family bathroom and hot press.

House type B and B1 will provide for a large a kitchen / diner / living area with separate living room, utility and downstairs WC, while house type B1 provides for a larger utility room and study at ground floor level. At first floor, both house types provide for four bedrooms, one ensuite, a family bathroom and linen closet.

House types C and D will provide a kitchen / diner and separate living room at ground floor level with a WC and the first floor level will provide for 3 bedrooms, one ensuite, family bathroom and linen closet.

It is proposed that the detached houses, house types A and A1, will have an overall height of 11.2m, while the semi-detached houses will have an overall height of 9.12m.

2.4 The proposed site layout plan provides each proposed housing unit will have an area of private open space provided generally in the order of between 84m<sup>2</sup> and 453m<sup>2</sup>, with three houses having areas of 1,572m<sup>2</sup> (house no 6), 1,706m<sup>2</sup> (house no 7) and 2,202m<sup>2</sup> (house no 17). The proposed development will provide for a total of 2,508m<sup>2</sup> public open space provided in three areas across the southern and south eastern

areas of the site. The plan for the site seems to retain many of the existing trees on the site and access to the proposed estate will be through the existing Cleve Hill estate, using the existing small roundabout open space area associated with the estate.

2.5 In order to facilitate the proposed development, the Board will note the extensive ground works proposed which will include cutting and filling of the site as well as the construction of a 4m high concrete retaining wall along the northern boundary of the site, from the commercial developments side. The development will connect to public services, water, sewer, gas etc, from the northern area of site via a wayleave.

2.6 The planning application was accompanied by a number of documents in support of the proposed development as follows:

- Planning application form
- Full suite of planning maps and drawings
- Tree Survey, Cunnane Stratton Reynolds
- Planning Report, Cunnane Stratton Reynolds
- Landscape & Visual Impact Report, Cunnane Stratton Reynolds
- Appropriate Assessment, Screening Report, Cunnane Stratton Reynolds
- Former Icehouse Site Inspection Report, John Cronin & Associates
- Engineering Planning Report, JODA Engineering Consultants.

### **3.0 REPORTS ON PLANNING FILE**

3.1 There are 4 no third party objections noted on the planning file report and the issues raised are summarised as follows:

- The proposed development is denser, more dangerous, more alien to the existing residential habitat and more objectionable.
- Associated increased traffic
- Access issues raised associated with the feature tree on the grassy island. This is not strictly a roundabout and traffic flows by it not around it.
- This area is the only public amenity within the existing estate and the only area to accommodate the safe play of children.
- The previous proposal was more in keeping with the location and the residents did not object to the development which currently has planning permission on the site.

- The proposed open space is inadequate to serve 31 units and houses are close together.
- Overlooking of existing houses will occur due to current site layout.
- Boundary fence proposals unacceptable and has an industrial appearance.
- Questions whether site investigations were carried out.
- Concerns raised regarding the existing drainage and sewage disposal arrangements of the existing houses in Cleve Hill.
- The applicant does not have written consent to connect the proposed surface water sewer to the existing sewer in private property and the application should be invalidated on this basis.
- Articles 22(g) of the P&D Regulations, 2001, as amended and Section 34(13) of the P&D Act, 2000, as amended are cited.
- The information presented in respect of services is unclear and the attenuation tank and collection chamber are not indicated.
- The development raises concern about surface water volumes which would arise and adjacent property has flooded in the past from surface water run-off from the Cleve Hill site.
- The range of proposed houses – 94% of which are 4 bed – would not comply with the City Development Plan or Joint Housing Strategy which seek to encourage a diversity of house types to establish sustainable residential communities.
- The proposed payment as compliance with Section 96 of the P&D Act does not comply with the provisions of the Urban Regeneration and Housing Act, 2015 which came into effect on 1<sup>st</sup> September, 2015 and rules out the option of a monetary contribution in lieu of the transfer of land or units.
- The impact of the development on the landscape and existing trees is raised as a concern. The layout as proposed would result in the trees being in private ownership and as such, their future protection cannot be guaranteed. Examples cited by the applicant with regard to the protection of trees relate to a residential development where the trees were maintained as part of the public amenity spaces.
- The proposed development does not relate to the existing residential developments in Cleve Hill in terms of boundary treatments, house finishes and the better interaction of public open space – particularly as the only green space in the existing estate is to become a busy roundabout.
- In light of the dangerous cliff falls at the western and northern boundaries of the site, it will be important to curtail over-development.

3.2 There are 2 no external reports noted on the planning file as follows:

- Irish Water: This report raises concerns in relation to the adequacy of the foul drainage proposals and further information is required.
- HSA: The Health & Safety Authority notes that the proposed development site is covered by Regulation 24(2)(c) of S.I. 209 of 2015 but has been determined as being located outside the outer zone of the relevant site. The Authority does not advise against the granting of planning permission in the context of Major Accident Hazard.

3.3 There are 7 no. internal reports noted from other departments within CorkCounty Council on file from the following:

Environment Waste Management & Control: raises no objections subject to compliance with a number of conditions.

Archaeologist: No archaeological objections to the proposed development on the basis that the site has been archaeologically tested and that the ice-house will not be impacted by the proposed development.

Drainage Division: Concerns raised as to the adequacy of the foul drainage proposals. Further information required with regard to 5 issues. The report also provides 7 conditions should FI not be sought.

There is a second report from the Drainage Division which considers the issue of Appropriate Assessment. This report concludes that AA is not required.

Road Design: Further information sought with regard to the proposed finished road and green area levels, gradient of roads, cross sections, pavement finishes and public lighting. The report advises no objection to the proposed development subject to the necessary information being provided.

Heritage Officer: Report concludes that further information is required and that an updated ecology report be submitted. This report should address the presence of protected flora and fauna species of significant habitats on the site and include a bat survey which should pay particular attention to the trees which are intended to be removed. In addition, the report should refer to the presence if any, of alien invasive species on the site.

Transportation & Mobility Section: This report considers the proposed access to the development site and notes that the internal road and footpath layout needs to be designed from the pedestrian upwards, in accordance with the requirements of DMURS. The report considers that pedestrian connectivity is poor and that a check of the adequacy of the public lighting in the existing Cleve Hill estate will also be required. The report concludes that further information is required.

Parks Section: Notes the context of the subject site and advises that the trees add considerable sylvan character to the site and surrounding residential area and are an important element of the local landscape. The area is designated as an Area of High Landscape Value in the City Development Plan, 2015-2021. The report raises a number of concerns which are required to be addressed by way of FI or condition relating to finished levels, location of open space, proposed boundary treatments and particularly to the south.

3.4 The initial Planning Report on file considered the proposed development under a number of headings as follows:

1. Land use zoning objective
2. Area of High Landscape Value
3. Site development works
4. Density and dwelling mix
5. Public Open Space
6. Layout, design & access
7. Landscaping & boundary treatment
8. Impact on amenities, and quality of residential development
9. Archaeology
10. Ecology
11. Services
12. COMAH (Seveso II) Directive
13. Part V

In addition, the assessment deals with Development Contributions. The assessment concludes with a request for further information in relation to 8 issues including adequacy of the foul and storm drainage proposals, visual impact and a revised visual impact assessment, details of the extent and scope of the proposed site development works, public open space, landscape and boundary treatment issues, details of levels and gradients of roads and open spaces, ecology

report and Part V compliance. Further information request issued on the 7<sup>th</sup> August, 2015.

- 3.5 A response to the further information request was submitted seeking to address the issues raised. The response included a number of additional reports which deal with the specific issues arising. This response was submitted to Cork City Council on 7<sup>th</sup> December, 2015
- 3.6 Following receipt of the further information response, no further third party submissions were noted.
- 3.7 Following receipt of the further information response, no further reports were submitted from external bodies.
- 3.8 Following receipt of the further information response, there were 6 further reports from the following internal departments within CorkCity & County Council as follows:

Parks, Landscape & Cemeteries Section: Confirms satisfaction with the landscape revisions as detailed.

Road Design: If clarification is to be sought in relation to Part V, clarification to be sought in relation to the upgrading of public lighting on the existing access road as well as requesting the submission of a cross section to show the relationship between the proposed new retaining wall and house no. 24.

Drainage Division: The further information submitted is satisfactory.

Heritage Officer: No objection subject to the implementation of the mitigation measures in full as outlined in Section 7 of the report carried out by Aardwolf Wildlife Surveys.

Water Services Section: Happy with FI submitted and report sent to Irish Water.

Housing Capital Section: Notes the commitment to provide 10% of units for the purposes of social housing. Further clarification is required on the types of units being proposed would need to be provided to



comply with Part V obligations. Further consultation with the Housing & Community Directorate is recommended.

- 3.9 The Planning Report prepared following receipt of the response to the further information request considers the information provided as well as the comments / submissions made from internal departments. The report concludes that clarification of the further information is required in relation to Public Lighting issue and Part V compliance proposals.
- 3.10 A request for clarification issued on the 12<sup>th</sup> January, 2016.
- 3.11 In response to the clarification request, the applicant submitted details seeking to address all issues raised on the 18<sup>th</sup> January, 2016.
- 3.12 Following receipt of the clarification of further information response, no further third party submissions were received.
- 3.13 Following receipt of the clarification of further information response, no further reports were submitted from external bodies.
- 3.14 Following receipt of the clarification of further information response, both the issues of public lighting and compliance with Part V were considered to have been addressed to the satisfaction of the relevant internal departments of Cork City Council, with relevant reports to this effect on file. In addition, the Drainage Section submitted conditions for inclusion in a grant of permission at the request of the Area Planner.
- 3.15 The final planners report on the file recommends that planning permission be granted for the proposed development subject to 14 stated conditions.

#### **4.0 DECISION OF THE PLANNING AUTHORITY**

The Planning Authority decided to grant planning permission for the proposed development subject to 16 no. conditions, all standard in the main.

## 5.0 RELEVANT PLANNING HISTORY

The following is the relevant planning history associated with the subject site:

**TP07/31997:** Permission was sought for the construction of 20 two and a half storey houses and a serviced site on the subject site. Following FI, the proposal was amended to construct 18 houses in total with the omission of the serviced site. Planning permission was granted by Cork City Council subject to 20 conditions on the 4<sup>th</sup> February, 2008. This decision was not appealed and the permissions expiry date was the 3<sup>rd</sup> February, 2013.

On the 21<sup>st</sup> September, 2012, an application to extend the appropriate period of permission TP07/31997 for five years. On the 15<sup>th</sup> November, 2012, permission was granted to extend the appropriate period of the permission until the 3<sup>rd</sup> February, 2018. This permission remains valid and live.

**TP08/33063:** Permission was sought for alterations to 7 of the previously permitted houses. Permission was granted on the 29<sup>th</sup> July, 2008. There was no appeal.

### **Adjacent Decisions:**

**ABP Ref 28.244219 (PA ref 14/36134):** Planning permission refused to Luke Murphy for the construction of two houses and all ancillary site works at No. 31 Clevehill Estate, Blackrock Road, Cork. This decision was upheld on appeal.

## 6.0 POLICY CONTEXT

### 6.1 Development Plan:

6.1.1 The Cork City Development Plan 2015 – 2021 is the statutory Development Plan for the city of Cork. The subject site is located within the south side of Cork City, in the suburban residential area of Blackrock. The subject site is located within an area of Cork City which is zoned ZO4, Residential, Local Services and Institutional Uses, where it is the stated objective of the zoning to 'protect and provide for residential uses, local services, institutional uses and civic uses, having regard to employment policies.

- 6.1.2 Chapter 6 of the City Development Plan deals with Residential Strategy and provides details in relation the relevant housing objectives, Joint Housing Strategy, social housing & Part V requirements as well housing demand and supply issues.
- 6.1.3 The southern area of the identified site, which includes the existing roads associated with the existing Cleve Hill residential estate, is included within the Blackrock Road Architectural Conservation Area. This ACA includes a number of the existing houses. The subject site itself is located to the north, and outside, of the designated ACA. Chapter 9 of the City Development Plan deals with Built Heritage and Archaeology and is considered potentially relevant in this regard.
- 6.1.4 The site is also designated as an Area of High Landscape Value and in this regard, Chapter 10 of the City Plan, which deals with Landscape and Natural Heritage, is relevant. Objective 10.4 deals with Areas of High Landscape Value and provides that it is the objective of the Plan ‘to conserve and enhance the character and visual amenity of Areas of High Landscape Value through appropriate management of development in order to retain the existing characteristics of the landscape and its primary landscape assets. Development will be considered only where it safeguards the value and sensitivity of the particular landscape.....’
- 6.1.5 Chapter 16 of the City Plan deals with Development Management and Part A deals with Requirements for Significant Developments and those in Sensitive Areas while sections 16.6 – 16.8 deal with Visual Impact Assessments and objective 16.2 is considered relevant which states ‘All significant planning applications shall submit an accompanying visual impact assessment.’ Part B deals with Urban Design and provides guidance in terms of design & layout, density, plot ratio and public open spaces amongst others. Part C of Chapter 16 deals with Residential Developments and Sections 16.40-16.42 deal with Residential Density, Sections 16.43-16.45 deal with Dwelling Size Mix, Section 16.46 deals with Residential Design, Section 16.49 with New Residential Developments, Sections 16.60-16.64 with Open Space Requirements with Table 16.6 providing guidance in relation to Residential Public Open Space Provisions and Section 16.71 deals with naming of estates. Part G of Chapter 16 of the Plan deals with Car & Cycle Parking Requirements for Development Management.

## 6.2 Sustainable Residential Development in Urban areas, Guidelines (DoEHLG, 2008):

These statutory guidelines update and revise the 1999 Guidelines for Planning Authorities on Residential. The objective is to produce high quality – and crucially – sustainable developments:

- quality homes and neighbourhoods,
- places where people actually want to live, to work and to raise families, and
- places that work – and will continue to work - and not just for us, but for our children and for our children’s children.

The guidelines promote the principle of higher densities in urban areas as indicated in the preceding guidelines and it remains Government policy to promote sustainable patterns of urban settlement, particularly higher residential densities in locations which are, or will be, served by public transport under the *Transport 21* programme.

Section 5.6 of the guidelines suggest that there should be no upper limit on the number dwellings permitted that may be provided within any town or city centre site, subject to the following safeguards:

- compliance with the policies and standards of public and private open space adopted by development plans;
- avoidance of undue adverse impact on the amenities of existing or future adjoining neighbours;
- good internal space standards of development;
- conformity with any vision of the urban form of the town or city as expressed in development plans, particularly in relation to height or massing;
- recognition of the desirability of preserving protected buildings and their settings and of preserving or enhancing the character or appearance of an Architectural Conservation Area; and
- compliance with plot ratio and site coverage standards adopted in development plans.

## 7.0 GROUNDS OF APPEAL

7.1 This is a multiple third party appeal against the decision of Cork City & County Council to grant planning permission for the proposed residential development.

7.2 Mr. Des Murphy has submitted an appeal against the decision of the City Council to grant the proposed development and the grounds are summarised as follows:

- As the owner of the Cleve Business Park to the north of the site, concerns are raised in terms of surface water treatment, location of attenuation tank and potential implications for property, the proposed boundary treatment and the proposed housing mix.
- The PA requested written evidence of agreements of all affected landowners in relation to service connections. In response, the applicant submitted a letter from a solicitor as evidence of permission. The proposed development does not accord with the signed agreement of 24<sup>th</sup> October, 2006 with respect to the treatment of surface water from the Cleve Hill Estate.
- The cited agreement is premised on the connection of 18no. dwellings and not 31 as proposed.
- No assessment has been undertaken as to the capacity of appellants drainage system to accommodate the proposed development and it would be inappropriate to grant permission in the absence of such an assessment.
- The applicant has no right to connect the proposed 31 dwellings to appellants drainage system and no consent is given.
- The existing Cleve Hill Estate is served by a temporary connection to appellants drainage system and is a combined system, contrary to the policy of Cork City Council. There is no consent for the continued use of the temporary connection and permission for the temporary connection is now withdrawn.
- In terms of surface water, the appellant advises in relation to the steep sloping site and the flooding history of the appellants site. The appellants site is located within an identified 'Defended Area' for both fluvial and tidal flooding.
- The appellant is concerned in terms of the proposed design of the soakaway given the prevalence of limestone rock underlying the site, the karstification of the area and propensity for subsidence in the general area.
- The location of the large attenuation tank is also raised as a concern as the information provided is confusing.
- The significant engineering works to make the site suitable for development is raised as a concern, in particular the level of cut and filling.
- Issues associated with the proposed erection of a 4m vertical reinforced concrete wall along the boundary of the property have not been assessed or agreed in terms of impacts on appellants property.

- The proposed housing mix proposed does not comply with the City Development Plan requirements and the proposed layout does not accord with DMURS.

It is concluded that the proposed development has not established that if permitted, it will not give rise to increased flooding of adjacent property, would seriously injure amenities by reason of the proposed attenuation tank and 4m high concrete wall and would seriously injure the residential amenities of the existing residents of Cleve Hill estate as a result of the withdrawal of the temporary foul sewer connection and would, therefore, be prejudicial to public health.

The appeal is accompanied by a report from Malachy Walsh & Partners, Engineering & Environmental Consultants which considers the potential adverse effects of the proposed development on the appellants property. It is requested that permission be refused.

7.3 The Residents of Cleve Hill have also lodged an appeal against the decision of Cork City Council to grant planning permission for the proposed development. The grounds of appeal are summarised as follows:

- Traffic Concerns:
  - Capacity of the existing estate road to accommodate additions traffic
  - Existing road network provides for on road parking for a number of residents which allows single lane use only.
  - The development will increase traffic levels by 3 if permitted.
  - Proposals to widen the footpaths will result in an inability to park on both sides of the hill.
  - The only amenity area for the estate is the cul-de-sac through which the entrance is proposed.
- Density & Landscape Value:
  - No objection in principle to the proposed development, but concern relates to the increased density now proposed from the previously permitted development.
  - The development will have an impact on the overall character and pattern of development of Cleve Hill and will not be in keeping with the high landscape value of the site.
  - All protected trees should remain within the public amenity space as if in private ownership, their future protection cannot be guaranteed.

- Reference to maintenance of mature trees in nearby estates by the applicants relates to trees in the public amenity areas.
- Density should be reduced to maintain trees in public areas.
- Amenity Space:
  - There is little amenity space currently available within Cleve Hill estate.
  - The proposed public amenity space should interact better with the existing Cleve Hill estate.
  - It is requested that the works to footpaths, public lighting, services and roads be completed to a standard to allow it be taken in charge by Cork City Council, and that this taking in charge is completed.
- Structural Stability:
  - Concerns raised regarding the significant engineering works, extent of cut and fill and the implications for the structural stability of existing houses.
  - Concern also in relation to the suitability of the existing subsoil and topography of the site to cater for large water volume runoff which will arise.
- Roads, paths and lighting:
  - Cork City Council has resurfaced and maintained the road and lighting as if they were in their charge.
  - Correspondence exists from the council advising that the road is deemed to be in their charge.
  - Current residents have never had to enter agreement with a management company and do not wish to do so in the future.

## **8.0 OBSERVERS:**

8.1 There are no observers noted in relation to this appeal.

## **9.0 RESPONSES**

### **9.1 Planning Authority:**

The Planning Authority has responded to this appeal, advising no further comments to be made.

## 9.2 **First Party Response to Third Party Appeals:**

It is submitted that the grounds of appeal do not form a justifiable basis to overturn the consent issued by Cork City Council and it is requested that the Board dismiss the appeals. A discrepancy in the residents appeal is advised. The submitted document is presented under a number of headings and under the Introduction heading, provides information with regard to the planning history, the conditions attached by Cork City Council are summarised and the detail of the Council reports. Section 2 of the report deals with the response to the grounds of appeal as follows:

## 9.3 Appeal by Des Murphy:

- The legal issue raised in relation to an existing legal agreement for the sewer connection is a civil issue. It is common for statutory authorities to issue consents for development under the planning code in the full expectation that other consents needed to enable the commencement of development. Having obtained Counsel advise on the matters raised – enclosed – it is concluded that the appellant is significantly mistaken in his interpretation of the 2006 lease.
- Drainage issues:
  - An underground services survey was carried out by Lenmar Group in 2015 of foul and storm drains under Mr. Murphys property as submitted with original application.
  - The survey found that the drainage network has sufficient capacity to accommodate the proposed development.
  - The existing Cleve Hill estates road gullies, currently discharging to a temporary combined sewer, will be now be attenuated on lands within the new estate.
  - The proposed drainage design proposal has been accepted by the City Council.
  - It is submitted that Mr. Murphy does not have the legal right to disconnect the existing temporary combined sewer connection that serves Cleve Hill.
- Flood Risk Issues:
  - The proposed development will not negatively impact on the appellants property.
  - The subject area is located within a defended area.
  - The appellants lands are currently not protected from pluvial flooding or overland flooding. The proposed development will improve this existing situation.



- Boundary Treatment:
  - The proposed reinforced earth embankment is to be located 1.5m from the boundary and the attenuation tank, 2m from the boundary.
  - It will not be necessary to enter the appellants lands to deliver such boundary treatments and the existing embankment will remain.
  - To construct the attenuation tank, sheet piling may be used.
  - The applicants have a legal right to enter the appellants land to connect the foul and surface water connections.
- Housing Mix Issues:
  - The issue is primarily aimed at Cork City Council and their implementation of planning policy.
  - Section 2 of the Planning & Development (Amendment) Act, 2015 provides that guidelines may contain specific planning policy requirements rather than a mandatory requirement.
  - The housing mix has been justified in the planning application and given the site location, the provision of apartments or higher densities would not be appropriate to its setting.
- Site layout Issues:
  - The proposed development has been designed having regard to the requirements of DMURS.

It is submitted that claims made in the above appeal are unfounded and in some instances, represent a misinterpretation of the provisions of the permitted scheme.

#### 9.4 Appeal by Cleve Hill Residents:

- Traffic Concerns:
  - In relation to the existing problem of illegal parking, it is submitted that this is a management issue.
  - The applicant is amenable to implementing a private clamping system that will be managed by the Management Company without charge to the existing residents.
  - Road markings and traffic calming measures submitted in response to the FI request were favourably considered by Cork City Council.
  - A Construction Traffic Management Plan will be prepared and any construction impacts will be short-term and temporary in nature.
  - If necessary, an onsite parking compound for contractors will be developed.

- Density & Landscape Value:
  - The proposed density is appropriate to the site and reflects the pattern of development in this area of Cork City.
  - When the previous application was lodged, the site was not zoned for residential use. The increased density is appropriate to the current zoning objective.
  - The increase from 18-31 houses will have a negligible impact on the existing Cleve Hill estate.
  - There are only a number of trees that need to be removed due to conflicts with the proposed site layout, to the satisfaction of the Parks Section of the Council.
  - The protection of trees is covered by Conditions 1 and 4 of the grant of permission and the appellants concerns with respect to the retention of mature trees, where proposed, is unfounded.
- Amenity Space:
  - It is considered that the proposed open space proposal will be more than sufficient to accommodate the proposed development and the existing Cleve Hill estate.
  - Revisions made at FI stage has created an inclusive public open space.
- Structural Stability:
  - The engineers and LPA are content that there will be no risk to the existing Cleve Hill estate of structural damage to their properties and this is reflected in the favourable decision.
- Taking in Charge:
  - While it appears that the roads in Cleve Hill are maintained by Cork City Council, there is awareness of any formal 'taking in charge' process occurring.
  - The improvements proposed are to support the proposed development and will benefit the wider community.
  - The development is to be managed by a Management Company and will not be taken in charge. There will be no levies sought from existing residents in the Cleve Hill area.

9.5 The response concludes that the issues raised in both appeals are not insurmountable. It is considered that a number of issues raised by the residents have not had regard to the revisions made to the scheme as part of the response to FI, or the conditions attached by the PA. It is requested that the decision to grant permission be upheld by the Board.

9.6 Enclosures with the response include the following:

- JODA Engineering Consultants response to Mr. Murphys appeal
- Counsel Opinion on Easement and Mr. Murphy's appeal

## 10.0 ASSESSMENT

Having undertaken a site visit and having regard to the relevant policies pertaining to the subject site, the nature of existing uses on and in the vicinity of the site, the planning history associated with the subject site, the nature and scale of the proposed development and the nature of existing and permitted development in the immediate vicinity of the site, I consider that the main issues pertaining to the proposed development, considering the proposal *de novo* can be assessed under the following headings:

1. Compliance with National Guidelines & Standards & Planning History
2. General Compliance with the Cork City Development Plan & General Development Standards
3. Roads & Traffic
4. Site Development Works and Water Services
5. Flood Risk Analysis
6. Other Issues:
  - a) Archaeology
  - b) Ecology
  - c) COMAH (Seveso II) Directive
  - d) Part V
  - e) Development Contributions
  - f) Other Third Party issues
7. Appropriate Assessment

### 10.1 Compliance with National Guidelines & Standards & Planning History:

Sustainable Residential Development in Urban Areas (DoEHLG, 2008)

- 10.1.1 Given the fact that the subject site is located within the established development boundaries of Cork City, is zoned for residential purposes and can connect to public services, the principle of development at this location is considered acceptable and in compliance with the general thrust of national guidelines and strategies. The 2008 guidelines updated the Residential Density Guidelines for Planning Authorities

(1999), and continue to support the principles of higher densities on appropriate sites in towns and cities and in this regard, I consider that it is reasonable to support the development potential of the subject site in accordance with said guidelines. The development proposes the construction of 31 dwelling units on a site covering approximately 2.58ha and in terms of the recommendations of the Guidelines, the density could be considered at the lower levels permissible on such zoned lands. However, given the nature and topography of site and its location within the context of the overall area, I have no objection to the proposed density of same in principle.

10.1.2 The subject site constitutes part of the wider, and long established, Cleve Hill residential estate which is accessed off Blackrock Road. The existing Cleve Hill comprises a small residential development which includes 20 houses in total, 9 pairs of semi-detached and 2 detached houses. The subject site has been granted planning permission in the past, for a residential development comprising 18 houses (20 sought, 18 permitted) and following a grant of an extension of duration of the permission, this permission is still valid and will expire on the 3<sup>rd</sup> of February, 2018.

10.1.3 The objective of the Sustainable Residential Development in Urban Areas guidelines is to produce high quality, and crucially, sustainable developments. Section 5.6 of the guidelines provides certain safeguards with regard to such urban developments to deal with both existing and future residents the area of the proposed development. Said safeguards are detailed above in Section 6.2 of this report and I consider it reasonable to address the proposed development against same.

10.1.4 a) *Compliance with the policies and standards of public and private open space adopted by development plans;*

In terms of private open space, the proposed development provides for rear gardens with minimum depths of 10m. The Cork City Development Plan requires that between 60-75m<sup>2</sup> is required for houses in suburban areas. I am satisfied that the proposal provides for adequate private open space associated with the houses.

With regard to public open space, the proposal as amended and permitted, provides for an area of open space to be located at the

entrance to the estate and which will be open onto the existing Cleve Hill Estate road. The area of open space is approximately 2,000m<sup>2</sup>. The area of the total site is 2.58ha and as such, the area of public open space as proposed is well below the 15% requirement. In addition, I am concerned that the open space as proposed is inadequate to accommodate the existing residences in Cleve Hill, which is significantly devoid of any real useable public open space. The Board will note that the proposed development is presented almost as an addition to the Cleve Hill estate and in this regard, the open space provision is to be provided to serve the existing houses as well as the proposed houses. In this instance, the area of open space provision is significantly lower than 10%.

The Board will note the area of trees along the southern boundary of the site which are to be retained as part of private rear gardens for houses nos 28-31. I also note the comments of the third party appellants, Cleve Hill residents, who consider that the trees should comprise part of the public open space area associated with the proposed development in order to ensure their long term protection. I would consider that such a proposal would be highly appropriate as in some cases the crowns of the trees appear to come within 5m of the proposed houses. This may impact on the future residents in terms of daylight availability, particularly when the trees are in full bloom. While the visual amenity of the residents would be enhanced by the presence of the trees, I wonder would they survive long-term.

As such, and in order to ensure compliance with the open space requirements of the City Development Plan, I recommend that houses numbers 28 to 31 be omitted and the area associated with same be incorporated into the public open space area. This will require modification of the site layout in terms of house numbers 24 to 27, and possibly numbers 22 and 23, in order to ensure that the houses overlook the open space rather than back onto it. In terms of proposed house sites 22 to 27 (6 houses), I consider that only 4 should be accommodated. Such amendments will require prior agreement with the Planning Authority, and I am satisfied that such amendments can be conditioned. In terms of compliance with the stated Development Plan requirements as it relates to the provision of public open space, and subject to the recommended amendments to the site layout and the omission of houses as described, I am satisfied that the proposed development can comply.

10.1.5 b) *Avoidance of undue adverse impact on the amenities of existing or future adjoining neighbours;*

The subject site is zoned for residential development and as such, the principle of the development is considered acceptable. In addition, and subject to the recommended amendments as described above, I consider that the overall proposal will improve the existing residential amenities of the area through the provision of an appropriate level of public open space. The potential impact of the proposed development of 31 houses (25 if amended as recommended), notably in terms of traffic generated should permission be granted, is a real and genuine concern which has possible adverse implications on the existing amenities of the residents of Cleve Hill. This issue will be further discussed below under the roads and traffic section of this assessment.

The Board will note the proposals for boundary treatments for the site were extensively considered by the Planning Authority and a number of City Council Departments during their consideration of the proposed development. The proposed development seeks to retain the existing trees where advised and proposes that the open space area will be unfenced and will be accessible to existing residents. I am satisfied that the proposed boundary treatments are acceptable and appropriate for this setting.

10.1.6 c) *Good internal space standards of development;*

While this issue generally pertains to apartment type developments, it is appropriate to state that the proposed internal spaces provided within the houses of this proposed development are acceptable and appropriate to the family type homes proposed.

10.1.7 d) *Conformity with any vision of the urban form of the town or city as expressed in development plans, particularly in relation to height or massing;*

Given the nature and scale of the proposed development at this location, I am satisfied that the development as presented is acceptable in principle, in terms of height and massing.

- 10.1.8 e) *Recognition of the desirability of preserving protected buildings and their settings and of preserving or enhancing the character or appearance of an Architectural Conservation Area;*

Not relevant in this instance as there is no protected structure in proximity to the subject site. In terms of the adjacent Architectural Conservation Area, the visual impact of the proposed development needs to be considered. The Blackrock Road ACA is centred on the main thoroughfare of Blackrock Road running from Tellengana Lodge in the west to Blackrock Castle in the east. Having regard to the context of the subject site, together with the existing boundaries and its location off the main thoroughfare of Blackrock Road, I am satisfied that the development, if permitted, will have little or no impact on the ACA.

- 10.1.9 f) *Compliance with plot ratio and site coverage standards adopted in development plans.*

The Cork City Development Plan does not dictate site coverage and having regard to the nature of the subject site, I am satisfied that the proposed development is acceptable in my opinion, in terms of site coverage and plot ratio.

- 10.1.10 Having regard to the above, I consider that the development as proposed raises certain issues and concerns in terms of adequate provision of public open space, but I am satisfied that these issues can be addressed by way of omission of units by condition of permission. The principle of the proposed development is acceptable, given the location of the subject site within the wider Cork City area and in close proximity to public transport links and the fact that the proposed land use is compatible with existing adjacent uses.

## **10.2. Compliance with the Cork City Development Plan & General Development Standards:**

- 10.2.1 The development before the Board provides for the construction of a residential development comprising 31 units with associated roads, open spaces and services. The subject site is currently greenfield. The Cork City Development Plan 2015 – 2021 is the statutory Development Plan for the city of Cork. The subject site is located within the south side of Cork City, in the suburban residential area of Blackrock. The

subject site is located within an area of Cork City which is zoned ZO4, Residential, Local Services and Institutional Uses, where it is the stated objective of the zoning to 'protect and provide for residential uses, local services, institutional uses and civic uses, having regard to employment policies'. In this regard, it is considered that the principle of the proposed residential development is acceptable and in compliance with the existing policy and objective applicable to the subject site. As such, the issues for consideration pertaining to the proposed development relate to the nature of the proposed development in terms of its scale, density and form as it relates to its surroundings, as well as issues regarding amenity, and are discussed below.

10.2.2 It is acknowledged that national guidelines encourage the provision of higher density development within urban areas in order to use serviced lands in a sustainable manner, but regard has to be given to the existing nature of development in the vicinity of the subject site as well as the nature and scale of the surround area and existing residential estates. The development proposes 31 residential units in the form of primarily 4 bed roomed detached houses and a small number of 3 bed, semi-detached houses. The development will provide a variety of 3 and 4 bedroom units. The Board will note the submission from the third party appellant with regard to the proposed house types, and the apparent non-compliance with the development Plan requirements in this regard. However, the subject site is located within an older residential suburb and consideration must be given to this context.

10.2.3 The southern area of the identified site, which includes the existing roads associated with the existing Cleve Hill residential estate, is included within the Blackrock Road Architectural Conservation Area. This ACA also includes a number of the existing houses. In addition, the Board will note that the site is located within a High Value Landscape Area, and in this regard, Chapter 10 of the City Plan, which deals with Landscape and Natural Heritage, is relevant. Objective 10.4 deals with Areas of High Landscape Value and provides that it is the objective of the Plan 'to conserve and enhance the character and visual amenity of Areas of High Landscape Value through appropriate management of development in order to retain the existing characteristics of the landscape and its primary landscape assets. Development will be considered only where it safeguards the value and sensitivity of the particular landscape.....' As such, I consider that the



proposed development is acceptable in terms of mix and unit types, having regard to the location of the site.

10.2.4 I do not consider that in principle, a grant of planning permission for the nature, scale or density proposed would represent a development which contravenes the requirements of the zoning objective for the site as per the Development Plan, nor would a grant of planning permission in principle be contrary to the proper planning or sustainable development of the area. However, other relevant planning matters are required to be considered and are addressed further below.

12.2.5 Relevant sections of the Cork City Development Plan are contained in Chapter 16 which deals with development management control measures. The following sections are considered relevant in this instance:

- Part A deals with Requirements for Significant Developments and those in Sensitive Areas:
  - Sections 16.6 – 16.8 deal with Visual Impact Assessments
  - Objective 16.2 states ‘All significant planning applications shall submit an accompanying visual impact assessment.’
- Part B deals with Urban Design and provides guidance in terms of:
  - design & layout,
  - density,
  - plot ratio
  - public open spaces amongst others.
- Part C deals with Residential Developments:
  - Sections 16.40-16.42 deal with Residential Density,
  - Sections 16.43-16.45 deal with Dwelling Size Mix,
  - Section 16.46 deals with Residential Design,
  - Section 16.49 with New Residential Developments,
  - Sections 16.60-16.64 with Open Space Requirements
  - Table 16.6 providing guidance in relation to Residential Public Open Space Provisions
  - Section 16.71 deals with naming of estates.
- Part G of Chapter 16 of the Plan deals with Car & Cycle Parking Requirements for Development Management.

10.2.6 In terms of the above, the following is relevant:

- Visual impact:
  - I am satisfied, having regard to the full suite of information provided in support of the proposed development, together

with the Visual Impact Assessment and photomontages submitted, that the proposed development can be adequately accommodated in this sensitive landscape. In addition, the Board will note the landscaping proposals for the overall site will support the integration of the development into the landscape.

- Urban Design / Residential Development issues:
  - I have addressed issues relating to density and layout as well as provision of public open space above. I am satisfied that in the context of the subject site, the proposed density of the development is acceptable. In terms of the proposed layout, I also have no objections in principle although the Board will note my concerns in terms of the provision of public open space as discussed.
  - In terms of the proposed design of the houses, the Board will note that planning permission exists for the site which incorporate similar designs as presented. I am satisfied that while the proposed house designs are significantly different to the existing houses in Cleve Hill, having regard to the existing landscape features and the presence of many mature trees which are to be retained, there will be a visual separation between the two developments. I have no objections to the proposed house design and if permitted, are unlikely to have any impact on the existing character of Cleve Hill.
  - I have discussed matters in relation to public open space above. Subject to the omission of a number of houses and a subsequent amendment to the layout of part of the site, I am satisfied that the development can comply with the Cork City Development Plan requirements in this regard.
  - In terms of the Dwelling Size Mix, the Board will note the concerns of a third party appellant. I have considered these concerns above. The applicants themselves submit that 'while a broader housing mix may be desired, the provision of larger properties in this location seeks to deliver a density on the development area that is appropriate to its character'.

The City Development Plan seeks the provision of dwellings with 3/3+ bedrooms in order to achieve balanced communities. Given the mature residential nature of the area in the vicinity of the subject site, I consider that the proposed provision of 3 and 4 bedroomed homes is appropriate and will promote the area for families. I further consider that the

house types proposed are of a sufficient size to accommodate families.

While I accept that the mix of house types proposed is restrained, I am satisfied that the development as proposed is acceptable and appropriate to this mature residential area and indeed, with the high value landscape afforded to the area. The nature of the site itself would not support a higher mix of house types and I am satisfied that the introduction of apartments would be contrary to the existing character of the area.

10.2.7 Having regard to the proposed development and its compliance with the requirements of the Cork City Development Plan, I am satisfied that, in principle, the development generally accords.

### **10.3 Roads & Traffic:**

10.3.1 The issue of access and traffic has been raised by all third parties in the course of the Planning Authority's assessment of the proposed development. The Board will also note the comments of the Road Design and Transportation & Mobility Sections of the City Council who raised initial concerns in relation to the proposed development. In particular, concerns were advised regard to the proposed finished road and green area levels, gradient of roads, cross sections, pavement finishes and public lighting. In addition, the Transportation & Mobility Section required that the internal road and footpath layout needs to be designed from the pedestrian upwards, in accordance with the requirements of DMURS. The report considers that pedestrian connectivity is poor and an issue was raised in terms of the adequacy of the public lighting in the existing Cleve Hill estate. Following amendments as part of responses to further information and clarification requests, the Board will note that Cork City Council had no outstanding objections to the proposed development in terms of road and traffic.

10.3.2 Third party appellants also note that Cleve Hill is used for parking of cars on both sides by residents and the raises concerns that the proposed development will result in the inability to continue this practice through the widening of footpaths. The final proposed layout of

the development will see the removal of the small green area, roundabout like, and tree at the entrance to the proposed site. In response, the applicant has submitted to the Board that the 'illegal parking' is a management issue which will be addressed by the applicant in the form of a private clamping system that will be associated with the proposed estate, and at no cost to the existing residents. I'm not sure that this is what the residents meant in their appeal. My understanding is that it is the residents who park along the road and given that there are no double yellow lines, I would not consider such actions as illegal. In any event, I have considered the proposals put forward by the applicant and I would note that the existing road width of 8m is to be retained with the alterations to the footpaths amounting to altering the corners to achieve 6m radii. This is in the interests of improving pedestrian priority.

10.3.3 In terms of the design of the proposed development, including the entrance and access to the site, it is a requirement that they be considered against the Design Manual for Urban Roads and Streets (DEMURS), DoTTS, March 2013. This Manual replaces DMRB in respect of all urban roads and streets and it does not differentiate between public and private urban streets, where a 60kph speed limit or less applies. The DMURS provides radically new design principles and standards from DMRB. The implementation of DMURS is obligatory and divergence from same requires written consent from relevant sanctioning authority (NRA, NTA or DTT&S) and is applicable in the case at hand. The Manual seeks to address street design within urban areas (i.e. cities, towns and villages). It sets out an integrated design approach. What this means is that the design must be:

- a) Influenced by the type of place in which the street is located, and
- b) Balance the needs of all users.

10.3.4 DMURS sets out a road user priority hierarchy as follows:

- 1 Pedestrians;
- 2 cyclists
- 3 public transport
- 4 car user.

The key design principles for roads include –

- Integrated streets to promote higher permeability & legibility;

- Multi-functional, place-based, self-regulating streets for needs of all users;
- Measuring of street quality on the basis of quality of the pedestrian environment
- Plan-led, multidisciplinary approach to design.
- The importance of this design approach is dependent on site context, but also on road type - local, arterial or link. The DMURS defines a hierarchy of places based on place-context and place-value, with centres (such as town and district centres) having highest place-value. Places with higher context / place-value require:
  - Greater levels of connectivity;
  - Higher quality design solutions that highlight place;
  - Catering for and promotion of higher levels of pedestrian movement;
  - A higher level of integration between users to calm traffic and increase ease of movement for vulnerable users.

10.3.5 DMURS provides detailed standards for appropriate road widths - 2.5m to 3m per lane on local streets and a 3.25m standard for arterial and link route lanes, junction geometry - greatly restricted corner radii to slow traffic speed and improve ease of pedestrian crossing, junction design - omit left turn slips and staggered crossings etc., and requires that roads are not up designed above their speed limit. The proposed development has sought to apply design standards with regard to the proposed access roads and junctions with the public roads and footpaths according with DMURS, and includes proposal to address design issues associated with the Cleve Hill estate road to ensure compliance with DMURS. I am satisfied that the proposed amendments will achieve this. The concerns of the residents in terms of on road parking may require further consideration by the applicant but I am satisfied that the existing houses in Cleve Hill are all afforded the required parking levels associated with the existing houses. I am further satisfied that the on street parking will not be significantly diminished to warrant great concern. As such, I consider that the development as proposed, adequately complies with DMURS.

10.3.6 In terms of the construction phase of the proposed development, the third parties have raised concerns as they relate to the impact of construction traffic on both the surface of the estate road as well as the impact on other users of the road. While any development will result in

some impacts to existing users, I am satisfied that these impacts are generally temporary in nature. In addition, I note the willingness of the applicant to create an on-site parking compound for contractors during construction to ensure no parking on the access road. I would suggest that this is absolutely necessary and should be a condition of any grant of planning permission.

10.3.7 The Board will note that the zoning of the subject site affords potential for a residential development, and in terms of roads and traffic issues, I am satisfied, based on the information submitted to date, the details of the reports of the City Councils roads engineers, the requirements of the Design Manual for Urban Roads and Streets, the existing residential developments in the area and the potential impact of the proposed development and the traffic generated by same on the local road network, that the proposed development would not result in a significant traffic hazard for existing residents in the area, would not contribute to traffic congestion within the local road network and would not adversely affect the existing residential amenities of Cleve Hill and the carrying capacity of Blackrock Road by reason of the additional traffic resulting from the proposed development.

#### **10.4 Site Development Works and Water Services:**

10.4.1 The Board will note that the subject site presents significant difficulties in terms of its development by reason of its topography and the applicant has presented details in terms of the proposed level of cutting and fill that will be required to support the proposed development. The third party appellant to the north has also raised concerns in terms of the potential impacts of the cutting and filling on his property. The details submitted also caused some confusion as to the works required to be carried out which lie outside the delineated site area. In addition, the proposed site levels were queried by the Planning Authority, particularly as they relate to road and open space gradients. I am satisfied that the applicant has addressed the issues raised and that the subject site can be development without impacts arising which will affect the existing adjacent properties.

10.4.2 It is intended that the proposed development will connect to existing services which serve this area of Cork City. The applicant, through the Planning Authoritys assessment of the application, have presented clear details as to their intentions in this regard.

- **Water Supply:**  
It is proposed that the houses will connect to the public water supply from the south of the site. I note that Irish Water will require that the existing 4" water main which runs in a north-south direction under the footpath on the western side of the estate be blanked off at the branch with the 6" main on the Blackrock Road, and all services shall be transferred to the new main. The development will also provide water meters for each proposed house to comply with Irish Water specifications. The public system appears to have adequate capacity to accommodate the proposed development and the Irish Water has indicated no objections subject to compliance with stated conditions. I have no objections to the proposed development in relation to the provision and supply of potable water.
- **Foul Sewer:**  
Concern was raised at an early stage by Irish Water and the Drainage Section of Cork City Council in relation to the adequacy of the foul drainage proposals. The existing Cleve Hill estate originally discharged to a septic tank system which was located within the proposed development site. This tank has been replaced with a temporary sewer pipe, which currently acts as a combined sewer for both foul and surface water, which connects to an existing sewer to the north of the site, on private commercial property. The proposed development will see the provision of a new dedicated storm water sewer to cater for the existing estates road surface water runoff, while the foul and roof runoff will remain to be conveyed via a new combined sewer. All foul water arising from the proposed development will be discharged via a new dedicated 150mm foul sewer. Both sewers will discharge to a collector chamber to be located to the north of the site and the combined flows will then discharge into the existing 225mm foul sewer within the private commercial property and on to the public system located on Monaghan Road.

The Board will note that following the response to the further information request, both Irish Water and the Drainage Section of Cork City Council advised satisfaction, subject to conditions, with the proposal in relation to dealing with foul waters arising. I have no objections to the proposed development in relation to the management of foul water.

- **Storm Water:**  
Surface waters arising from the proposed development will be drained to a new storm sewer to be constructed within the proposed development site. This sewer will also flow to the north of the site and will discharge into the existing 450mm storm sewer which is located within the private commercial property, and into to a watercourse to the north of Monaghans Road. All flows from this sewer will be controlled and excess water will be stored in a reinforced concrete attenuation tank which is to be located along the northern boundary of the site. This attenuation tank will have a capacity of 296.4m<sup>3</sup> with a maximum discharge to the watercourse being 44.3l/s during a 1:100 year storm event. All discharges from the site will pass through a bypass hydrocarbon interceptor prior to entering the watercourse.

The third party has raised concerns in relation to the discharge of surface waters and the potential for flooding of adjacent property. The applicant submits that the proposed development works will reduce the potential for surface water runoff from the site affecting the adjacent property and will improve the situation. Issues of flooding are addressed further below. The Board will note that Irish Water and the Drainage section of Cork City Council have advised conditions to be attached to any grant of planning permission for the proposed development. I am satisfied that the development can be appropriately accommodated on the site.

## **10.5 Flood Risk Analysis:**

10.5.1 The Cork City Development Plan requires that all development applications proposed in an area where there is a Flood Risk as identified in the plan, shall submit a number of things in order to satisfy the Planning Authority that any flood risk arising from the proposal will be successfully managed with the minimum environmental effect, that finished floor level requirements can be met throughout the proposed development, that mitigation measures are provided for and that the Planning Requirements of the Office of Public Works (OPW) as indicated on the website [www.flooding.ie](http://www.flooding.ie) can be met on the proposed site. The Board will note that the site has never flooded and is not located within an identified flood risk area.



10.5.2 The third party appellant has raised concerns in terms of the potential for the development to flood his property to the north of the subject site due to overland surface water. The applicant has submitted a response advising that having regard to the proposals with regard to the collection, attenuation and controlled release of surface waters arising from the proposed development, the overland flow potential is significantly reduced. It is considered that the development will improve the existing situation for the adjoining property. JODA Engineering Consultants have prepared a detailed report in relation to this matter. I consider that the issue of flooding associated with the subject site has been adequately considered and the Board will note the zoning afforded to the overall site as well as the planning history of the site. In this regard, I am satisfied that the proposed development is acceptable in this regard.

#### **10.6 Other Issues:**

- a) Archaeology
- b) Ecology
- c) COMAH (Seveso II) Directive
- d) Part V
- e) Development Contributions
- f) Other Third Party issues

#### **a) Archaeology**

The Board will note from the planning history associated with the subject site, that the previous permission, TP07/31997 refers, sought clarification in relation to the presence of an icehouse within the development site. In response, the developer engaged an archaeologist who undertook a site inspection and testing of the site to confirm that the icehouse is located on a cliff face to the northwest of the site. The conclusions of the report found that given its isolated and peripheral location, the former icehouse is unlikely to be affected by the proposed development. The City Archaeologist also prepared a report in relation to the current proposed development and noted that the site has been archaeologically tested in consultation with the City Council, and that no archaeological features or finds were noted on the site. There are no archaeological issues arising.

#### **b) Ecology**

In terms of the ecology of the site, the Board will note that the site is not located within or immediately adjacent to any designated European

Site. The site has a large number of mature trees, and a tree survey / report was prepared in support of the proposed development. In order to accommodate the proposed development, approximately 5 Group A trees and 8 Group B trees are to be removed.

In response to the further information request, a Mammal & Alien Species Assessment was prepared by Aardwolf Wildlife Surveys. The applicant suggests that while there is bat roost potential on the site, there was no evidence of bats on the site. In this regard, it is suggested that the same strategy as previously approved continues to apply and that bat boxes will be used to provide roosts on planting that is retained. The survey of the site was carried out on the 3<sup>rd</sup> of November, 2015 and it is acknowledged that due to the timing of the survey, it was not possible to undertake a bat activity survey with handheld detectors as these animals were beginning to hibernate and were not on the wing. In addition, it is noted that dense foliage remained on the trees due to unseasonably mild weather and as such, the survey of individual trees for the presence of potential bat roosts was not possible. The report also advises that onsite scrub being widespread, high and dense, and many areas were impenetrable.

BCIreland's National Bat Records Database, within 10km of the study area, reveals that eight of the nine known Irish bat species have been observed locally. Of these species, it is considered that four species may occur on site, those being common and soprano pipistrelle, Leisler's and brown long-eared bats. All Irish bat species are protected under the Wildlife Act, 1976 and Wildlife Amendment Act, 2000 as well as the EU Habitats Directive 1992. This protection extends to the bat roosts and any interference with bats or their roosts can only be carried out under a licence to derogate from Regulation 23 of the Habitats Regulations 1997, issued by the NPWS. The report advises a number of mitigation measures in order to protect bats including:

- Retention of boundary vegetation / trees and additional planting
- Protection of retained trees
- Survey of mature trees scheduled for removal
- Requirements around proposed tree felling
- Removal of invasive plant species
- Ice house preservation
- Alternative bat roost provision
- Lighting.

The report concludes that no bat roosts should be lost due to the proposed development if the recommended mitigation measures are implemented in full. The assessment also notes that badgers were not present on the site and that the development if permitted, will not impact on this species.

Following receipt of the above, the Heritage Office of Cork City Council advised no objection to the proposed development, subject to the implementation of the mitigation measures in full. While I accept the expert opinion, I am concerned that the survey was carried out at an inappropriate time of the year and that the surveyor experienced great difficulty in accessing the likely more relevant areas of the site, particularly with regard to bats. That said, I acknowledge the planning history associated with the subject site, together with the previous ecological assessment carried out. Should the Board be minded to grant planning permission in this instance, I recommend that the mitigation measures advised in the Aardwolf Wildlife Surveys report be conditioned to be implemented in full.

**c) COMAH (Seveso II) Directive**

The subject site is located within the consultation zone for the Gouldings Chemicals Site which is located on Centre Park Road. This consultation zone extends to 700m and the site, while located within the consultation zone, is outside the inner, middle or outer zone associated with this Seveso site. The Board will note that the HSA has commented on this proposed development and has not advised against the granting of planning permission. In this regard, I have no objections to the proposed development.

**d) Part V**

The issue of Part V compliance arose with this proposed development by reason of the timing of the application being lodged and the enacting of the provisions of the Urban Regeneration and Housing Act 2015, which came into effect on the 1<sup>st</sup> September, 2015. Initially, the applicant had proposed to satisfy their obligations with regard to Part V under Section 96(3)(b)(iv) of the Planning & Development Act, 2000 as amended, through a financial payment rather than the transfer of unit/s. the 2015 Act, the payment of monies in lieu of units is no longer an option. The options for compliance with Part V are now:

- (i) Part of the application land;
- (ii) Completed houses on the application land;

- (iii) Houses on other land within the functional area of the local authority; and
- (iv) Lease of houses on the application land or other land within the functional area of the local authority.

Chapter 6 of the City Development Plan deals with the Residential Strategy and Objective 6.3 relates to Social Housing under Part V. The Plan objectives seeks to require that 14% of units on all land zoned for residential uses (or for a mix of residential and other uses) to be reserved for the purpose of social housing and specialised housing needs. The Urban Regeneration and Housing Act 2015 however, now requires that 10% of the units be provided and the applicant has advised that, subject to the agreement with the City Council in relation to attributable costs and the provisions of Section 96 of the Planning & Development Act, 2000 as amended by the 2015 Act, they will provide the required 10% of units to satisfy their Part V obligations. I have no objections in this regard, and an appropriate condition should be attached to any grant of planning permission.

**e) Development Contributions**

The Development Contribution Scheme in prepared in order to comply with the requirements of the Planning & Development Act, 2000 (as amended). Cork City Council, by resolution, made a scheme and the proposed development is a development which will utilise public services and to which the Development Contribution Scheme is applicable. A condition should be attached to a grant of planning permission requiring the payment of the general development contribution for the proposed development.

The Supplementary Development Contribution Scheme is prepared in accordance with Section 49 of the Planning & Development Act, 2000 (as amended), which enables a planning authority when granting a permission under Section 34 of the Act, to include conditions requiring the payment of a contribution in respect of any public infrastructure service or project as defined in the Act and specified in the Supplementary Development Contribution Scheme. Cork City Council, by resolution, made a scheme in 2013 and identifies the relevant project as *works and the provision of rolling stock associated with:*

- o *Re-opening of and operation of suburban services on the Cork to Midleton Line*
- o *Provision of new services between Blarney and Cork (some to continue to Mallow)*

- *Upgrading of rolling stock and frequency on the Cobh line as demand increases.*

*Within the city, the main elements of the project are the re-opening of Kilbarry Rail Station and the refurbishment / realignment of the Central (Kent) Station.*

The Scheme identifies the area of the Scheme as applying to areas which are:

- *Within a 1 kilometre corridor of the Cork – Blarney, Cork – Cobh and Cork – Midleton railway lines (excluding tunnel section), (the disused) Kilbarry Railway Station, and Kent Railway Station, in so far as they are situated within the functional area of Cork City Council (i.e. Cork City)*

Section 2.8 of the Scheme, deals with exemptions and reductions and section 2.10 deals with the term of the supplementary scheme which indicates that the scheme will cease, unless a new scheme is made beforehand, in 2015, 6 months after the Cork City Development Plan 2009 – 2015 has expired.

The area associated with the application of the contribution under the Supplementary Development Contribution Scheme are clearly defined in the scheme and the proposed development lies within the defined 1km corridor where the contribution is applicable. The infrastructure projects identified in the Scheme have been clearly identified and will benefit the wider community of Cork City and its environs. I am satisfied that the terms of the Supplementary Development Contribution Scheme are applicable in this instance and that a condition should be attached to any grant of planning permission to this effect.

**f) Other Third Party issues**

- The Board will note the appeal by Mr. Murphy and in particular, the issues raised in relation to the necessary permissions to connect to the existing services from his property to the north of the site. Indeed, the connections to services are critical to the development of the site. Reference is made to legal agreements as well as the capacity of the drainage system within his property to accommodate the proposed development. In particular, Mr. Murphy advises that the cited agreement is premised on the connection of 18no. dwellings and not 31 as proposed. In response to this, the applicant, through their agent, obtained Counsel advise on the matter. I am satisfied that the issue raised is a civil matter and that

a grant of planning permission in this instance will not eliminate the need for the applicant to obtain all relevant consents in order to proceed with the development.

- In terms of other issues raised by the Cleve Hill Residents, I note the concerns raised in terms of the potential impacts of the development on the structural stability of their property. I am satisfied that this issue has been addressed by the applicant and I note that no development works are proposed outside of the identified site boundaries.
- In relation to the issue raised by the residents in terms of 'Taking in Charge' and the proposed management company, I am satisfied that the applicant has addressed these issues.

## **10.7 Appropriate Assessment:**

10.7.1 The subject site is located at a distance of approximately 1.4km from the nearest SPA, Cork Harbour SPA Site Code 004030 to the south of the site, and 1.8km from the Douglas River Estuary NHA, Site Code 001046. As such, the Board will be required to consider the potential effects of the proposed development on the identified SPA and NHA. Although the site is not located within the existing boundaries of the Natura site, given its proximity to same, the precautionary principle must be applied in this instance. The site must be subject to AA regarding its implications for the Natura 2000 site in view of the site's conservation objectives *"if it cannot be excluded, on the basis of objective information, that it will have a significant effect on that site, either individually or in combination with other plans or projects"* (EC, 2006). In other words, where doubt exists about the risk of a significant effect, an Appropriate Assessment must be carried out.

10.7.2 An Bord Pleanála, as the competent authority is responsible for obtaining the information necessary to enable an AA screening to be undertaken, and if required, obtain from the proponent, a Natura Impact Statement. The purposes of AA screening will determine whether appropriate assessment is necessary by examining:

- a) *whether a plan or project can be excluded from AA requirements because it is directly connected with or necessary to the management of the site, and*

- b) *the potential effects of a project or plan, either alone or in combination with other projects or plans, on a Natura 2000 site in view of its conservation objectives, and considering whether these effects will be significant.*

#### 10.7.3 AA Screening:

1. Description of the project and local site: This is an application to construct 31 dwelling houses on a greenfield site within a suburban location and where services are available. The development also includes a significant level of cutting and filling on the site in order to accommodate the proposed development. The subject site is not located within an identified flood risk area.
2. Is the proposed development directly connected with or necessary to the nature conservation management of a Natura 2000 site: No.
3. Identification of relevant Natura 2000 sites, within 5km of the subject site:
  - Cork Harbour SPA Site Code 004030
  - Douglas River Estuary NHA, Site Code 001046
4. Key Natura 2000 sites with regard to the subject site and proposed development are as indicated above.
5. Existing expert reports, advice or guidance: Cork City Council Drainage Division report contained AA screening and concluded that AA is not required.
6. The potential for significant impacts on Natura 2000 sites, having regard to potential significance indicators and to qualifying interests and conservation objectives for the site. Where doubt exists, it should be assumed that effects could be significant. In terms of the relevant Natura 2000 site in this instance, the Conservation Objectives for Cork Harbour SPA Site Code 004030, seek to maintain the favourable conservation condition of each qualifying interest associated with the Cork Harbour SPA, which are defined by specific list of attributes and targets. The associated Annex I habitats and the Annex II species for which the SPA has been selected include:
  - A004 Little Grebe *Tachybaptus ruficollis*
  - A005 Great Crested Grebe *Podiceps cristatus*
  - A017 Cormorant *Phalacrocorax carbo*
  - A028 Grey Heron *Ardea cinerea*
  - A048 Shelduck *Tadorna tadorna*

- A050 Wigeon *Anas penelope*
- A052 Teal *Anas crecca*
- A054 Pintail *Anas acuta*
- A056 Shoveler *Anas clypeata*
- A069 Red-breasted Merganser *Mergus serrator*
- A130 Oystercatcher *Haematopus ostralegus*
- A140 Golden Plover *Pluvialis apricaria*
- A141 Grey Plover *Pluvialis squatarola*
- A142 Lapwing *Vanellus vanellus*
- A149 Dunlin *Calidris alpina alpina*
- A156 Black-tailed Godwit *Limosa limosa*
- A157 Bar-tailed Godwit *Limosa lapponica*
- A160 Curlew *Numenius arquata*
- A162 Redshank *Tringa totanus*
- A179 Black-headed Gull *Chroicocephalus ridibundus*
- A182 Common Gull *Larus canus*
- A183 Lesser Black-backed Gull *Larus fuscus*
- A193 Common Tern *Sterna hirundo*
- A999 Wetlands

Potential significance indicators<sup>1</sup>:

Any impact on an Annex I habitat:

- Causing interference with, reduction, erosion or fragmentation of the Natura 2000 site: No/Not likely
- Causing direct or indirect damage to the physical quality of the environment (e.g. water quality and supply, soil compaction) in the Natura 2000 site: No/Not likely
- Causing serious or ongoing disturbance to species or habitats for which the Natura 2000 site is selected (e.g. increased noise, illumination and human activity): No/Not likely
- Causing direct or indirect damage to the size, characteristics or reproductive ability of populations on the Natura 2000 site: No/Not likely
- Interfering with mitigation measures put in place for other plans or projects: No/Not likely.
- Causing the introduction or spread of exotic or invasive species: No/Not likely.
- Causing a cumulative impact and other impacts: No/Not likely.

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<sup>1</sup> Using the Appropriate Assessment of Plans and Projects in Ireland - Guidance for Planning Authorities, DoEHLG, 2009 I consider that the potential significant indicators should include as presented. There is no defined list of indicators, with each site potentially generating a different list.



7. Assessment of likely effects - direct, indirect and cumulative – undertaken on the basis of available information as a desk study or field survey or primary research as necessary: Having considered the above potential significance indicators, I consider that the development, if permitted, is not likely to have an effect on the adjacent Natura 2000 site.

8. Screening Statement with conclusions: The safeguards set out in Article 6(3) and (4) of the Habitats Directive are triggered not by certainty but by the possibility of significant effects. Thus, in line with the precautionary principle, it is unacceptable to fail to undertake an appropriate assessment on the basis that it is not certain that there are significant effects. As such, it is reasonable to conclude that on the basis of the information on the file, which I consider adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on European Site, Cork Harbour SPA Site Code 004030, or any other European site, in view of the site's Conservation Objectives, and a Stage 2 Appropriate Assessment and submission of a NIS is not therefore required.

## **11.0 CONCLUSION & RECOMMENDATION:**

### **11.1 Conclusion:**

Having regard to the location of the subject site within the City of Cork, the planning history, the specific zoning objective relating to the site and the existing uses in the vicinity of the site, I consider that the principle of the proposed residential development at this location is acceptable. I am further satisfied that the development can be considered acceptable in terms of general site layout, servicing in terms of water and waste water, roads and traffic, ecology, archaeology, general site development works, appropriate assessment and flood risk. As such, I am satisfied that the development if permitted, would be an appropriate form of development and would not be contrary to the proper planning and sustainable development of the area.

### **11.2 Recommendation:**

It is recommended that permission be **GRANTED** for the proposed development, subject to amendments as advised, and for the reasons and considerations hereunder.

## REASONS AND CONSIDERATIONS

Having regard to the provisions of the current Cork City Development Plan, 2015-2021, the existing established residential use, the pattern of existing and permitted development in the vicinity and having regard to the information submitted as part of the planning application together with the information submitted in the appeal, I am satisfied that, subject to compliance with the following conditions, the proposed development generally accords with the policy requirements of the relevant plans as it relates to residential developments, would be acceptable in terms of servicing, traffic safety and would not injure the existing visual and residential amenities of properties in the vicinity of the site. It is further considered that the development would be acceptable in terms of the designated Area of High Value Landscape and would not impact upon the adjacent Architectural Conservation Area of Blackrock Road. It is concluded that the development, would be acceptable in terms of the proper planning and sustainable development of the area.

## SECOND SCHEDULE

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, submitted the 25<sup>th</sup> day of August 2015, as amended by further information submitted to the Planning Authority on the 17<sup>th</sup> day of September, 2015, 7<sup>th</sup> day of December, 2015 and 18<sup>th</sup> January, 2016, except as may otherwise be required in order to comply with the following conditions. Where such conditions require points of detail to be agreed with the planning authority, these matters shall be the subject of written agreement and shall be implemented 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 amended as follows:
  - (a) Proposed houses numbered 28 to 31 be omitted and the area associated with same shall be incorporated into the public open space area.
  - (b) The site layout in the south eastern area of the site, affecting houses numbered 22 to 27, shall be modified to accommodate the omission of the houses as required under (a) above, in order to ensure that the houses overlook the open space.

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.

3. The open spaces shall be developed for, and devoted to public use. They shall be kept free of any development and shall not be incorporated into house plots. The areas of public open space shown on the lodged plans shall be reserved for such use and shall be levelled, soiled, seeded, and landscaped in accordance with the detailed requirements of the planning authority. 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.

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

4. 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, including:
  - (a) Location of the site and materials compound(s) including area(s) identified for the storage of construction refuse;
  - (b) Location of areas for construction site offices and staff facilities;
  - (c) Details of site security fencing and hoardings;
  - (d) Details of on-site car parking facilities for site workers during the course of construction;

- (e) Details of the timing and routing of construction traffic to and from the construction site and associated directional signage, to include proposals to facilitate the delivery of abnormal loads to the site;
- (f) Measures to obviate queuing of construction traffic on the adjoining road network;
- (g) Measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network;
- (h) Alternative arrangements to be put in place for pedestrians and vehicles in the case of the closure of any public road or footpath during the course of site development works;
- (i) Details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels;
- (k) Containment of all construction-related fuel and oil within specially constructed bunds to ensure that fuel spillages are fully contained. Such bunds shall be roofed to exclude rainwater;
- (l) Off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil;
- (m) Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains.

A record of daily checks that the works are being undertaken in accordance with the Construction Management Plan shall be kept for inspection by the planning authority.

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

5. (a) The proposed access to the development, internal roads and footpaths from Blackrock Road and along the southern site boundary, shall be designed in accordance with the Design Manual for Urban Roads and Streets (DMURS).
- (b) The public lighting proposals shall be carried out in accordance with the plans and details provided in support of the proposed development.

Full details shall be agreed with the Planning Authority prior to commencement of development and all works shall be completed by the applicant, to the satisfaction of the Planning Authority prior to the occupation of any house within the proposed development.

**Reason:** In the interests of compliance with DMURS and in the interests of traffic and pedestrian safety.

6. All aspects of the proposed drainage layout, design and details shall be carried out in accordance with the plans and details submitted in support of the proposed development. Full details shall be submitted for the written agreement of the Planning Authority prior to the commencement of any development on the site and all works shall be completed by the applicant, to the satisfaction of the Planning Authority prior to the occupation of any house within the proposed development.

**Reason:** In the interest of public health, the protection of adjoining properties and the proper planning and sustainable development of the area.

7. 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. Roof colour shall be blue-black, black, dark brown or dark grey in colour only.

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

8. The detailed mitigation measures in relation to the protection of bats contained in the Aardwolf Wildlife Surveys, Mammal & Alien Species Assessment submitted to the Planning Authority on 7<sup>th</sup> day of December, 2015, and which are identified under the following headings in the assessment:

- Retention of boundary vegetation / trees and additional planting
- Protection of retained trees
- Survey of mature trees scheduled for removal
- Requirements around proposed tree felling
- Removal of invasive plant species
- Ice house preservation
- Alternative bat roost provision
- Lighting

shall be submitted to and agreed in writing with the planning authority, prior to commencement of development. These measures shall be implemented as part of the development. Any envisaged destruction of

structures that support bat populations shall be carried out only under licence from the National Parks and Wildlife Service and details of any such licence shall be submitted to the planning authority.

**Reason:** In the interest of wildlife protection.

9. Development described in Classes 1 or 3 of Part 1 of Schedule 2 to the Planning and Development Regulations, 2001, or any statutory provision modifying or replacing them, shall not be carried out within the curtilage of any proposed dwelling house without a prior grant of planning permission.

**Reason:** In the interest of residential amenity and in order to ensure that a reasonable amount of private open space is provided for the benefit of the occupants of the proposed dwellings.

10. 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 (Part V) of the Planning and Development Act 2000, as amended by the Urban Regeneration and Housing Act, 2015, 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.

11. Prior to commencement of development, the developer shall lodge with the planning authority a bond of an insurance company, a cash deposit, or other security to secure the provision and satisfactory completion of roads, sewers, watermains, drains, car parks, open spaces 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 of any part of the development. The security to be lodged shall be as follows -

- (a) an approved insurance company bond in an amount to be agreed with the Planning Authority prior to the commencement of any development on site
- (b) a cash sum, amount to be agreed with the Planning Authority prior to the commencement of any development on site, to be applied by the planning authority at its absolute discretion if such services are not provided to its satisfaction, or
- (c) such other security as may be accepted in writing by the planning authority.

**Reason:** To ensure the satisfactory completion of the development.

12. 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.

13. The developer shall pay to the planning authority a financial contribution in respect of the Cork Suburban Rail project in accordance with the terms of the Supplementary Development Contribution Scheme made by the planning authority under section 49 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 Supplementary Development Contribution Scheme made under section 49 of the Act be applied to the permission.

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**A. Considine**  
**Planning Inspector,**  
13<sup>th</sup> June 2016