



An
Bord
Pleanála

Inspector's Report PL04.247712

Development	Construct 6 two storey houses together with site development works, roads and footpaths
Location	Clarkswood, Mount Oval Village, Mounthoval, Rochestown, Co. Cork
Planning Authority	Cork County Council
Planning Authority Reg. Ref.	16/4692
Applicant(s)	O'Flynn Construction Co. Ltd
Type of Application	Permission
Planning Authority Decision	Grant with Conditions
Type of Appeal	Third Party
Appellant(s)	Diarmuid and Breda Linehan
Observer(s)	None
Date of Site Inspection	1 st March 2017
Inspector	Mary Crowley

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1.0 Site Location and Description

- 1.1. The appeal site with a stated area of 0.827ha is located at the north western end of the new Mount Oval residential area on relatively steeply sloped land within the Clarkeswood section of the estate in the Cork suburb of Rochestown. A large area of open space adjoins the proposed appeal site to the south. There is a temporary construction access road extending from the tarmac estate road through the site in the approximate location of the proposed estate road extension. It was also noted that part of the hillside has been excavated. The lands to the north of the site road fall steeply away from same and are presently overgrown. The site affords views to the north over Douglas and environs.
- 1.2. A set of photographs of the site and its environs taken during the course of the site inspection is attached. I would also refer the Board to the photographs available to view throughout the appeal file.

2.0 Proposed Development

- 2.1. The application submitted to Cork County Council on 29th March 2016 is for the construction of 6 no. two-storey detached dwelling houses, together with all associated site development works including roads and footpaths, retaining walls and landscaping. The application was accompanied by a cover letter / design statement, Appropriate Assessment Screening Statement and copy of Part V Exemption Certificate.
- 2.2. In response to a request for **further information** the applicant submitted the following on 17th October 2016:
 - Landscape and Visual Impact Assessment that concluded that the proposed development will have a moderate and neutral visual impact and will be successfully accommodated onto the landscape
 - Stated that following engagement with the owner of No 19 Clarkeswood, Mount Oval Village the following alterations have resulted:
 - Increase in separation distance between No 19 and proposed house No 1
 - Reduction in floor levels of the proposed dwellings

- Modification of the rear garden to House No 1, ensuring that the existing boundary wall is a minimum of 2m over proposed garden level
- Existing boundary wall to No 19 is to be retained and will form the boundary between the existing and proposed properties
- Revised site layout plans detailing traffic calming measures on the proposed / existing road, entrance piers, boundary details and turning area outside No 5 and 6
- Proposed drainage layouts
- Internal alterations to the ensuite and dressing room

3.0 **Planning Authority Decision**

3.1. **Decision**

- 3.1.1. Cork County Council issued notification of decision to grant permission subject to 23 generally standard conditions.

3.2. **Planning Authority Reports**

- 3.2.1. **Planning Reports** - The Case Planner in their first report (18th May 2016) requested further information in relation to the approach to visual impact and ground levels, boundary treatment, surface water and foul water disposal arrangements and internal estate road amendments. The Senior Executive Planner in their first report (18th May 2016) concurred with this recommendation. The Case Planner in their second report (11th November 2016) considered the further information submitted to be acceptable and recommended that permission be granted subject to conditions. The Senior Executive Planner in their second report (14th November 2016) also concurred with this recommendation. The notification of decision to grant planning permission issued by Cork County Council reflects this recommendation.

3.2.2. **Other Technical Reports**

- 3.2.3. **Area Engineer** (27th April 2016) – Further information was required in relation to retaining structures details, traffic calming measures and revised surface water

disposal arrangements. In a further report (1st November 2016) and having considered the further information submitted recommended that permission be granted subject to conditions.

- 3.2.4. **Estates Engineer** (2nd April 2016) – Further information was required in relation to a revised turning area, boundary treatment at the northern side of the road, details of retaining elements, foul and storm sewer layout and details of proposed boundary treatment. In a further report (28th October 2016) and having considered the further information submitted recommended that permission be granted subject to conditions.
- 3.2.5. **County Architect** (15th April 2016) – No stated objection subject to compliance with recommended conditions.
- 3.2.6. **NRDO / Cork National Roads Office** (3rd May 2016) – No objection subject to compliance with recommended conditions. In a further report (24th January 2017) and having considered the further information submitted refers to their previous report of 3rd May 2016.
- 3.2.7. **Public Lighting** (26th April 2016) – No stated objection subject to compliance with recommended conditions. In a further report (26th October 2016) and having considered the further information submitted refers to their previous report of 26th April 2016.

3.3. **Prescribed Bodies**

- 3.3.1. **Irish Water** – No objection but noted the applicant's requirement to sign a connection agreement with IW prior to the commencement of development and that it will be subject to the constraints of the Irish Water Capital Investment Programme.
- 3.3.2. **Inland Fisheries Ireland** – No objection to the proposal if there is sufficient capacity in the existing public foul sewer to accommodate the additional associated loading or alternatively subject to an onus on the developer to provide a separate form of effluent treatment until such time as the public facilities are adequate.

3.4. Third Party Observations

3.4.1. There is one observation recorded on the Planning File from John MacCarthy & Partners Chartered Engineers on behalf of Diarmuid & Breda Linehan, No 19 Clarkeswood, Mount Oval Village, Rochestown; who are also appellants in this case. The principal points of concern raised relate to:

- Dominant and overbearing nature of the development relative to neighbouring dwelling and associated rear private open space area
- Overshadowing and overlooking
- Diminution of residential amenities and use of neighbouring dwelling
- Diminution of value of neighbouring dwelling
- Loss of permitted open space
- Inadequate information supplied to enable full assessment of the application
- Proposed development fails to match the requirements of the County Development Plan and Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas and in the accompanying Design Manual
- Contrary to the proper planning and sustainable development of the area

4.0 Planning History

4.1.1. There are two previous planning applications and subsequent appeals on this site that are relevant to this appeal and that may be summarised as follows:

PL04.118838 (Reg Ref 99/6425) – Permission granted to O’Flynn Construction Company Limited for development comprising the demolition of a dwelling and the construction of residential and commercial development consisting of 545 one, two and three-storey houses, 144 apartments in three and four-storey buildings together with a three and four-storey village centre consisting of a public house, four number shops, supermarket, childcare centre, medical centre and 67 apartments, all with associated site development works. The application documents showed 12 No house traversing the entirety of the northern boundary of the large open space,

however these were omitted by the Board. Condition No 4(1) refers stated as follows:

(1) The layout shall be amended by the omission of the row of 12 semi-detached houses at the northern end of the site and the resultant steep, exposed area shall be incorporated into the open space and planted.

Provision may be made for replacement units generally located at the eastern end of this row where it can be shown that they do not interfere with the general view of the elevated open space and that they do not interfere with the amenities of the dwellings located in the Mount Oval Estate. Any such replacement dwellings shall be subject of a further application for approval.

(2) Lodge No 2 shall be omitted

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

PL 04.131623 (Reg Ref 07/4033) – Permission granted on site on the north side of the proposed access road including part of the subject site for the residential development of 5 no. three storey dwelling houses. This application was appealed and the appeal was subsequently withdrawn. According to the Case Planner the permission was never implemented and has since expired.

5.0 Policy Context

5.1. Development Plan

The operative plan for the area is the **Cork County Development Plan 2014 – 2020**. The site is located within the development boundaries for Cork City South Environs as set out in the **Carrigaline Electoral Local Area Plan (2011)** and is zoned as an “Existing Built Up Areas”. Objective ZU 3-1 Existing Built Up Areas of the County Development Plan states that it is an objective to *normally encourage through the Local Area Plans development that supports in general the primary land use of the surrounding existing built up area. Development that does not support, or*

threatens the vitality or integrity of, the primary use of these existing built up area will be resisted.

5.1.1. The following documents are key references informing residential development standards:

- 'Sustainable Residential Development in Urban Areas – Guidelines for Planning Authorities' (DoEHLG, 2009).
- 'Urban Design Manual: A Best Practice Guide' (DoEHLG, 2009).
- 'Irish Design Manual for Urban Roads and Streets' (2013).

5.2. Natural Heritage Designations

5.2.1. The site is not located within a designated Natura 2000 site. The relevant European sites are the Cork Harbour SPA (site code 004030) and the Great Island Channel cSAC (site code 001058).

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. The Third Party appeal has been prepared and submitted by John MacCarthy & Partners Chartered Engineers on behalf of Diarmuid & Breda Linehan, No 19 Clarkeswood, Mount Oval Village, Rochestown (house adjoining the appeal site to the east and located at the entrance to new development) and may be summarised as follows:

- The development as proposed will dominate and be overbearing when viewed from the appellant's home
- The development as proposed will result in over shadowing of the appellant's home
- The development as proposed will result in a diminution in the residential amenities of the appellant's home
- The development as proposed will result in a diminution in the use and enjoyment of the appellant's home

- The development as proposed will result in a diminution in the value of the appellant's home
- The development as proposed will result in a loss of permitted and proposed open space
- The information submitted in support of the application does not allow full assessment of the application
- The development as proposed fails to match the requirements of the County Development Plan, the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas and the accompanying Best Practise Guide.
- There are solutions available which would reduce the injurious impacts of the development
- The development as proposed is contrary to the proper and orderly planning and sustainable development of the area.

6.2. Applicant Response

6.2.1. The first party response to the appeal has been prepared and submitted by Hogan Architecture Urban Design and may be summarised as follows:

6.2.2. **Variation from prior grant of planning permission** – The original application documents (PL04.118838 refers) showed 12 no houses traversing the entirety of the northern boundary of the large open space. However, these were omitted by the Board in Condition No 4(1). Submitted that the proposed development most appropriately responds to the intention of this condition as

- The photomontages submitted demonstrate the views of the open space are maintained
- Any potential visual impact for the Clarkeswood Houses is eliminated and
- The amenities of all surrounding dwellings, including those in the adjacent Mount Oval Estate to the north are protected.

6.2.3. **Visual impact and Overlooking** – The separation between the proposed dwelling and garden in House No 1 is greater than any of the other proposed dwellings. This is to ensure that the existing boundary wall is a minimum of 2m over the new garden

level. Not considered appropriate to increase the height of this wall due to the shadow it currently casts over the garden of No 19. Further the Board will note that the living accommodation of the proposed house is located on its western side, away from the existing dwelling, and that any potential overlooking from the bedroom windows is no different to that which occurs in any housing development.

- 6.2.4. **Overshadowing** – The design approach was to ensure that any shading from the proposed development would not exceed the current situation. The top of the existing boundary wall is between 3.565m and 7.485m over ground floor level of No 19. This cast an extensive shadow over the existing patio and garden. The development as submitted does not exacerbate this situation and was further improved by alterations to the proposed development in response to the local authority's request for further information. The only impact identified in any study is at 18.00-time period where the roof of the proposed dwelling casts a shadow on the roof of the appellant's garage. The proposed development does not cause overshadowing of the neighbouring property.
- 6.2.5. **Information provided to Planning Authority** – Point no 2 of the response to the request for further information (12th October 2016) listed the drawings submitted to demonstrate the alterations to the design, including the east – west cross section as requested. Applicant has no explanation as to why the Planner assessing the file does not appear to have seen it. Further copy attached. The existing boundary to No 18 is to be retained to minimise any impact on the dwelling.
- 6.2.6. **Lack of Engagement from the Applicants** – Submitted that extensive discussions were held with the appellant during the course of the planning process and his representative was provided with drawings and information in hard copy and digital form. The appellant was also informed when the response to the request for additional information would be submitted and notified upon the decision. The appellant's suggestion to lower House No 1 by a further 2m came after the response was submitted to Cork County Council. Nevertheless, such an alteration is impractical as it would create a 3.0m difference between adjoining houses, resulting in the existing boundary wall being undermined, and creating an excessive slope to the public roadway. The scheme arrived at ensures that the appellants amenity is not compromised.

6.2.7. **Conclusion –**

- Development is consistent with the planning policies and objectives in the Cork County Development Plan
- Development is compatible with the zoning designation on the lands
- Development is an appropriate form and scale of development and is
- In accordance with the proposed planning and sustainable development of the area

6.2.8. **NOTE:** The submission was accompanied by a disc containing shadow study animations and copies of correspondence to the appellant.

6.3. **Planning Authority Response**

6.3.1. There is no response from Cork County Council recorded on the appeal file.

6.4. **Observations**

6.4.1. None recorded on file.

6.5. **Further Responses**

6.5.1. In further correspondence (16th February 2017), the appellant John MacCarthy & Partners Chartered Engineers on behalf of the appellant **Diarmuid & Breda Linehan**, No 19 Clarkeswood, Mount Oval Village, Rochestown submitted the following additional comments as summarised:

6.5.2. Appellant is disappointed that applicant's response to the appeal did not address various core and fundamental issues which informed the appeal. There has been an over simplistic assessment of their objection which completely avoids and ignores the history of the development, the purchase of their home and the context of the area based on the Master Plan for the development and the Boards previous decision (PL04.118838 refers).

6.5.3. The appellants understood that development may well recommence in the area but were lead to believe that the development would be on the opposite side of the road; to the north and at a much lower level. What has been submitted is a development at a completely different location, adjacent to the appellant's homes in an area which

was never indicated to be developed. The appellants in their appeal demonstrated how a more reasonable approach would be pursued by dropping the level of the proposed dwelling houses and re-orientating same to avoid adverse impact on use, enjoyment and residential amenities.

- 6.5.4. Given the sloping nature of the site, excavation, cut and fill etc will inevitably be required. Submitted that a very straight forward process of re-orientation, relocation etc would easily avoid the “problems” raised in the most recent submission to the Board. Such an approach would address and help to diminish other consequential negative outcomes, including overshadowing etc.
- 6.5.5. The appellant enjoys the benefit of the rear garden area in their premises in the evening most of the time. The overshadowing exercise did not demonstrate how the increase in overshadowing would have a further injurious impact during a reasonable period from 7pm onwards or thereabouts.
- 6.5.6. The appellants acknowledge the “offer of some comfort” with regard to overlooking however they are disappointed that no actual detail is provided of how such a screen could be formed in either location suggested.
- 6.5.7. The appellant has set out the full range of their concerns under 11 number points of objection and are disappointed that the applicants have attempted to diminish the nature and extent of their concerns and ignore the history and context of the development in the area. The alternative solution suggested has not been adequately considered. Requested that the Board direct the applicants to pursue the solutions suggested and provide clarity to the “comfort” proposals suggested.

7.0 Assessment

- 7.1. The application submitted to Cork County Council on 29th March 2016 was for the construction of 6 no. two-storey detached dwelling houses, together with all associated site development works including roads and footpaths, retaining walls and landscaping. In response to a request for further information the applicant submitted a Landscape and Visual Impact Assessment, amended plans increasing the separation distance between No 19 and proposed House No 1, a reduction in floor levels of the proposed dwellings, modification of the rear garden to House No 1 ensuring that the existing boundary wall is a minimum of 2m over proposed garden

level, revised site layout plans detailing traffic calming measures on the proposed / existing road, entrance piers, boundary details and turning area outside No 5 and 6, proposed drainage layouts and internal alterations to the ensuite and dressing room on 17th October 2016. Accordingly, this assessment is based on the plans submitted to the planning authority on 29th March 2016 as amended by plans received by the Planning Authority on 17th October 2016.

- 7.2. I note the issues raised by the appellants regarding the adequacy of information made available with the application and I would make the comment that that together with my site visit I am satisfied that there is adequate information available on the appeal file to consider the issues raised in the appeal and to determine this application. I would also point out for the purpose of clarity that the development proposed is considered “de novo”. That is to say that the Board considers the proposal having regard to the same planning matters to which a planning authority is required to have regard when making a decision on a planning application in the first instance and this includes consideration of all submissions and inter departmental reports on file together with the relevant development plan and statutory guidelines, any revised details accompanying appeal submissions and any relevant planning history relating to the application.
- 7.3. Having regard to the information presented by the parties to the appeal and in the course of the planning application, the planning history pertaining to the site and to my site inspection of the appeal site, I consider the key planning issues relating to the assessment of the appeal can be addressed under the following general headings:
- Principle / Policy Considerations
 - Visual Impact
 - Residential Amenity
 - Depreciation of Property Values
 - Traffic Safety
 - Construction Impact
 - Development Contribution(s)
 - Part V
 - Screening for Appropriate Assessment

- Flood Risk Assessment

7.4. Principle / Policy Considerations

- 7.4.1. The subject site is located within the development boundaries for Cork City South Environs as set out in the Carrigaline LAP (2011) and is zoned as an “existing built up area.” Effectively the proposed development appears to be a logical continuation of the existing form and pattern of development in Clarkeswood. However, from a review of the site planning history it is noted the Condition No. 4 of the overall original estate permission (PL 04.118838 & Reg Ref 99/6425) omitted 12 no. dwellings within the appeal area in question. Condition No 4(1) refers stated as follows:

The layout shall be amended by the omission of the row of 12 semi-detached houses at the northern end of the site and the resultant steep, exposed area shall be incorporated into the open space and planted.

*Provision may be made for replacement units generally located at **the eastern end of this row** where it can be shown that they do not interfere with the general view of the elevated open space and that they do not interfere with the amenities of the dwellings located in the Mount Oval Estate. Any such replacement dwellings shall be subject of a further application for approval.*
(Emphasis added)

- 7.4.2. This application seeks to replace the 12 dwellings proposed in the original scheme with 6 no detached houses. A review of the site layout plan pertaining to PL 04.118838 & Reg Ref 99/6425 (Drg No 560.2.01 refers) together with the current proposal indicates that the 6 no replacement units are located at the eastern end of the previous proposed row (in line with the requirements of Condition No 4) albeit they are now to the south of the proposed access road rather than their previous location to the north. In my view the amendment to the proposed access road was essential in order to meet the location requirement set out in condition No 4 and is therefore acceptable. Unusually in this case, Condition No 4 in my view almost acts as a design brief for the site, whereby the first criteria in terms of location has been met.

7.4.3. I note the appellants concerns that the proposed scheme is contrary to a Masterplan for the overall development which indicated that the appeal area is in an area of open space. In this regard I agree with the Case Planner that this “master plan” appears to be an extract from a sales brochure for the overall development and that the key reference point for development is the original site layout as permitted by the Board (PL 04.118838 & Reg Ref 99/6425).

7.4.4. Having regard to the nature and residential use of the proposed development I am satisfied the principle of a dwelling houses at this location is acceptable subject to compliance, with the relevant policies, standards and requirements set out in development plan specifically consideration of general view and amenities of existing dwellings which are discussed in detail below.

7.5. Visual Impact

7.5.1. As set out above Condition No 4(1) of PL 04.118838 (Reg Ref 99/6425) stated that provision may be made for replacement units generally located at the eastern end of this row ***where it can be shown that they do not interfere with the general view of the elevated open space*** and that the do not interfere with the amenities of the dwellings located in the Mount Oval Estate. (Emphasis added).

7.5.2. The applicant states that the application seeks to complete this portion of Mount Oval Village as was envisaged in the decision of An Bord Pleanála. The development is to be constructed on steeply sloping lands at the edge of a housing scheme. The proposed dwelling is in line with the adjacent dwelling to the east and follows a natural curve in the site. Further the proposed house type resembles those already constructed in the adjoining Clarkeswood, save that it has been amended to conform with larger internal space standards and storage. Overall I agree with the applicant and the County Architect that this land makes a limited contribution to the active open space area for Clarkeswood development at large.

7.5.3. I have considered the Landscape and Visual Impact Report submitted with the further information together with the photomontages. The report illustrates that the development will be visible from portions of the N40, Bloomfield interchange, N28 and surrounding areas but that the development will not interfere with the recently developed open space at Mount Oval and that the steep vegetated slopes will

visually merge with open space on the periphery of the area. The report also contends that with the implementation of proposed tree and shrub planting the proposed development “will be successfully accommodated into the landscape.” Overall I agree with the Case Planner that the proposed dwellings would be visible from wider views in the general area notwithstanding landscaping and level approach proposals.

- 7.5.4. In conclusion I am satisfied that the proposed scheme responds satisfactorily to the specific site constraints and context. Further the design addresses the steep gradients and the overall result (as amended) will be a group of houses that will read as an extension of the existing estate that will not interfere with the general view of the elevated open space. I do not therefore consider that the visual impact in light of the sites context and planning history to be so prominent or significant as to warrant a refusal in this case.

7.6. Residential Amenity

- 7.6.1. As set out above Condition No 4(1) of PL 04.118838 (Reg Ref 99/6425) stated that *provision may be made for replacement units generally located at the eastern end of this row where it can be shown that they do not interfere with the general view of the elevated open space and that the **do not interfere with the amenities of the dwellings located in the Mount Oval Estate.*** Emphasis added.
- 7.6.2. The appellant has raised particular concern regarding the development form and potential impact on his property (no. 19 to the east) in terms of overlooking, overshadowing and overbearing impact on his dwelling and rear garden space. Having regard to the information on file it is not considered that undue overlooking will occur from the proposed development and the required separation distances have been achieved where required. Further it is considered that there will be no undue overshadowing on any adjacent property as a result of the proposed development. I do not consider the impact to residential amenity to be so significant as to warrant a refusal in this case.

7.7. Depreciation of Property Values

- 7.7.1. With regards to the concerns raised that the proposed development will impact negatively on the value of property in the area I would make the following comments. The proposal is for 6 no dwelling houses on lands zoned for residential use where such developments is considered a permissible use and where it is reasonable to expect developments of this kind would normally be located particularly in light of Condition No 4 of PL 04.118838 (Reg Ref 99/6425). The dwellings proposed in terms of design, scale, layout and location are not considered to be a bad neighbour in this context and I do not therefore consider that to permit this development would lead to devaluation of property values in the vicinity. Accordingly, I am satisfied that this matter is not material to the consideration of this appeal in this instance.

7.8. Traffic Safety

- 7.8.1. As set out previously this application is for the extension of the existing cul-de-sac road and the construction of 6 no. detached dwelling houses and associated site development works. Each proposed house includes provisions for 2 no. parking spaces within its curtilage. I note from the Estates Engineer Report on file that the development is not taken in charge and the developer (applicant) continues to be responsible for the management & maintenance of the overall Mount Oval development. The Estates Engineer Report was also satisfied with the further information response in particular the revised turning area layout, in accordance with the guidelines - Recommendations for Site Development Works for Housing Areas; the boundary treatment proposals and the revised storm drainage proposals, which included revised layouts, revised gradients and incorporates drop manholes. However, of note is the Estates Engineers comments that *it is considered that proposals for suitable crash barriers, railings etc to address the relatively steep slopes which fall away from the northern side of the proposed road, are required.* I agree with the Estates Engineer Report that this matter can be resolved by a suitably worded condition.
- 7.8.2. It is noted that the Estates Engineer and the Area Engineer having considered the further information had no objection to the scheme subject to conditions. Based on the information provided on file together with my site inspection I am satisfied that

the that the projected trip generation in this case will not have a significant impact and that the adjacent road network has the capacity to accommodate the proposed development. In conclusion I do not consider that the proposed development will give rise to a traffic hazard.

7.9. Construction Impact

- 7.9.1. Due to the gradients of the site, there is a requirement for structural / excavation works and retaining structures. In this regard I agree with the Area Engineer that these retaining walls shall be reinforced concrete and design details shall be submitted for agreement prior to commencement of construction.
- 7.9.2. With regard to impacts to the structural integrity of adjoining properties as result of the developments proximity to neighbouring dwellings and boundaries I would add that this is an engineering issue and is not a planning issue in this instance whereby it falls to the applicant to ensure that there is no damage or deterioration to adjoining properties. However, should the Board be minded to grant permission it may be appropriate to adopt a precautionary approach in this regard whereby a suitably worded condition is attached requesting details of the intended method of construction to be submitted and agreed in writing prior to commencement of work on the site.

7.10. Development Contribution(s)

- 7.10.1. **Development Contributions** – Cork County Council has adopted a Development Contribution scheme under Section 48 of the Planning and Development Act 2000 (as amended). Having considered the exemptions listed in the “Reduced Contributions” Section of the scheme it is my view that the proposed development does not fall under the exemptions listed and it is therefore recommended that should the Board be minded to grant permission that a suitably worded condition be attached requiring the payment of a Section 48 Development Contribution in accordance with the Planning and Development Act 2000.
- 7.10.2. **Supplementary Development Contribution** - In relation to the Section 49 Supplementary Development Contribution Schemes (re-opening of an operation of suburban rail services on the Cork to Middleton line; provision of new rail services

between Blarney and Cork and the upgrading of rolling stock and frequency on the Cobh rail line as demand increases) it is noted that the subject site is located out with the catchment area of these projects and therefore the Section 49 scheme is not applicable in this case.

7.11. **Part V**

7.11.1. As the proposed development comprises 6 units, it is exempt from the requirement to provide Social and Affordable Housing in accordance with the Urban Regeneration and Housing Act 2015, being a development of fewer than 9 houses.

7.12. **Screening for Appropriate Assessment**

7.12.1. I refer to the Appropriate Assessment report submitted with the planning application together with the report of the Case Planner on file. The appeal site is not located on or adjacent to any Natural 2000 site. Having regard to the nature and scale of the proposed development, nature of the receiving environment and proximity to the nearest European site (Cork Harbour SPA (site code 004030) and the Great Island Channel cSAC (site code 001058)), no appropriate assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site

7.13. **Flood Risk Assessment**

7.13.1. The proposed development site is not located within Flood zones A or B as specified in the Flood Risk Management Guidelines for Planning Authorities 2009.

8.0 **Recommendation**

8.1. Having considered the contents of the application, the provision of the Development Plan, the grounds of appeal and the responses thereto, my site inspection and my assessment of the planning issues, I recommend that permission be **GRANTED** for the reasons and considerations set out below.

9.0 Reasons and Considerations

- 9.1. Having regard to the location of the site, the land use zoning objective for the site, the pattern of development in the area, the nature and scale of the proposed development as amended, the policy considerations set out in the current Development Plan for the area and planning history pertaining to the site it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential or visual amenities of the area and would not be prejudicial to public health and, therefore, would be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application as amended by the further plans and particulars submitted on the 17th October 2016 except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. The applicant/developer shall, prior to commencement of construction, submit drawings and details that show clearly the extent of all proposed retaining structures together with a certificate from a suitably qualified structural engineer confirming, the details of all works to the satisfaction of the Planning Authority for agreement.

Reason: In the interests of orderly development

3. Boundary walls, retaining walls and fencing shall be constructed in accordance with the details submitted on the 17th October 2016, save where amended by the conditions herein and unless otherwise agreed in writing with the Planning Authority.

Reason: In the interests of orderly development and residential amenity.

4. Detailed proposals for the treatment of all embankments / slopes within the development shall be submitted and agreed with the planning authority prior to the commencement of development works on site. Proposals for suitable safety railings & crash barriers shall be provided where necessary. A suitably designed safety railing and crash barrier shall be provided along the northern side (i.e. on the open side) of the proposed estate road. Details of this to be submitted and agreed with the planning authority prior to the commencement of development works on site.

Reason: In the interests of orderly development

5. (a) The site shall be landscaped in accordance with the scheme submitted on the 29th March 2016, unless otherwise agreed in writing with the Planning Authority. All planting shall be carried out within the first planting season following occupation of the dwellings.
(b) All planting shall comply with the specifications of the landscaping scheme agreed, shall be maintained by the developer and if any plant should die it shall be replaced within the next planting season.

Reason: In the interests of visual amenity.

6. A schedule of all materials to be used in the external treatment of the development to include shall be submitted to and agreed in writing with, the planning authority prior to commencement of development.

Reason: To ensure an appropriate standard of development/conservation

7. Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health

8. The internal road network serving the proposed development, including turning bays, junctions, parking areas, footpaths and kerbs, shall be in accordance with the detailed standards of the planning authority for such works.

Reason: In the interest of amenity and of traffic and pedestrian safety

9. Public lighting shall be provided in accordance with a scheme, [which shall include lighting along pedestrian routes through open spaces] details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Such lighting shall be provided prior to the making available for occupation of any house.

Reason: In the interests of amenity and public safety.

10. All service cables associated with the proposed development (such as electrical, telecommunications and television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development. All existing over ground cables shall be relocated underground as part of the site development works.

Reason: In the interests of visual and residential amenity.

11. Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the "Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects", published by the Department of the Environment, Heritage and Local Government in July 2006. The plan shall include details of waste to be generated during site clearance and construction phases, and details of the methods and locations to be employed for the prevention, minimisation, recovery and disposal of this material in accordance with the provision of the Waste Management Plan for the Region in which the site is situated.

Reason: In the interest of sustainable waste management

12. Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: In order to safeguard the [residential] amenities of property in the vicinity

13. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion of roads, footpaths, watermains, drains, open space and other services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

Reason: To ensure the satisfactory completion of the development.

14. 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.

Mary Crowley

Senior Planning Inspector

30th March 2017