



An
Bord
Pleanála

Inspector's Report PL28.248042

Development	Permission for the construction of 38 no. two and three storey dwellings including all associated site development and landscaping works.
Location	Mile Stream, Shanakiel, Cork
Planning Authority	Cork City Council
Planning Authority Reg. Ref.	16/37010
Applicant(s)	Aidan Murphy – Statutory Receiver on behalf of Coleman Bros. Ltd
Type of Application	Permission
Planning Authority Decision	Grant
Type of Appeal	First / Third Party
Appellant(s)	Gayle Murray & Others
Observer(s)	Councillor Tony Fitzgerald
Date of Site Inspection	29 th May, 2017
Inspector	A. Considine

1.0 Site Location and Description

- 1.1. The site the subject of this appeal is located at the western edges of Cork City, and just within the city boundaries in the Shanakiel area of the City. The site comprises an undeveloped area of the wider Mile Stream residential development and the proposal seeks to construct a different version of phase 2 of the previously permitted development. As part of the wider Mile Stream development, 107 dwelling houses were previously approved for construction as a component of a Part 8 process which also included the provision of c. 250 houses in Ard Sionnach to the south, the majority of which were affordable dwellings for Cork City Council. Construction ceased in 2007 / 2008.
- 1.2. The site has a stated area of 1.327ha and is located approximately 2.5km to the west of the city center and north of the River Lee, in a largely residential area off Blarney Road. The access road serving Mile Stream and Ard Sionnach will also provide access for the proposed residential development and the proposed access to the site is already constructed. There is a controlled junction in place with footpaths and public lighting on both sides of the road. The site itself has four houses already constructed and in an almost complete state, although in poor repair and the foundations and floor slab has been constructed to the northern area of the site. The site is essentially an abandoned construction site and the site has been stripped of soil with a significant area of hardcore already in place. That said, the site has become overgrown in the intervening years.
- 1.3. Shanakiel Ridge is located to the south of the site and the general area is identified as an area of high landscape value. Further to the west of the site, there are open agricultural fields which comprise the Cork Metropolitan Greenbelt.
- 1.3.1. The Board will also note the concurrent appeal PL 28.247708 / Reg. Ref. 16/37009, which seeks permission to construct 8 detached houses on lands to the west of the current site, and across the estate road.

2.0 Proposed Development

- 2.1. The application to Cork City & County Council was for permission for the for the construction of 38 no. two and three storey dwellings including all associated site development and landscaping works all at Mile Stream, Shanakiel, Cork.
- 2.2. The development originally proposed 28 semi-detached houses and 10 terraced houses. The house designs proposed are similar throughout the subject site and provide for accommodation over 2 and 3 levels. Overall the development provided for 2 no. 4 bedroomed houses, 32 no. 3 bedroomed houses and 4 no. 2 bedroomed houses. The proposed finishes include a black flat roof tile and a painted render finish to the external walls. It is also proposed to use triple glazed uPVC windows with uPVC facia, soffit and downpipes with composite front doors. Each house is proposed to be provided with 2 car parking spaces.
- 2.2.1. Following a request for further information, the site layout was amended in order to integrate and connect with the existing houses in the Mile Stream development. This amendment altered the provision of open space and the makeup of the house types proposed. Essentially, the permitted development provides for 2 no. 4 bedroomed houses, 26 no. 3 bedroomed houses and 10 no. 2 bedroomed houses. The houses proposed have the following floor areas:

Type	Unit Type	Floor Area	No
A	Semi-detached (4-bed)	125.20m ²	2
B	Semi-detached (3-bed)	114.20m ²	14
B1	End of Terrace (3-bed)	114.20m ²	8
B2	End of Terrace (3-bed)	124.80m ²	2
C	Semi-detached (3-bed)	104.00m ²	1
C1	Semi-detached (3-bed)	119.00m ²	1
D	Mid-Terrace (2-bed)	80.83m ²	10

This is the development permitted by Cork City Council.

- 2.3. A number of reports and documents were submitted in support of the proposed development including:

- Appropriate Assessment Screening Statement
- Tree Survey Report
- Landscape & Visual Impact Assessment, including photomontages
- Civil Engineering Planning Report
- Planning Application Form and relevant Plans and Particulars for the proposed development.

3.0 Planning Authority Decision

3.1. Decision

Following the submission of response to the further information request, the Planning Authority decided to grant planning permission for the proposed development, subject to 38 conditions.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Planning Officers initial report considered the proposed development in terms of the requirements of the Development Plan, the density and dwelling mix, design & residential amenity, visual impact and landscaping, public open spaces, roads and traffic issues, the Planning History pertaining to the site as well as the comments and submissions from internal departments and external bodies, including third party objectors. The report recommends that FI is sought with regard to a number of issues including as follows:

1. Water main layout
2. Revised drawings to comply with DMURS
3. Revised drawings to comply with car parking requirements
4. Proposals to comply with the Part 8 permission
5. Revised drawings to address public open space concerns

Following receipt of the response to the FI request, the final planners report recommends that permission be granted.

3.2.2. Other Technical Reports

Drainage Section: No objection subject to compliance with conditions.

Roads Section: Further information required.

Traffic Section: No objection subject to compliance with conditions.

Environment Section: No objection subject to compliance with conditions.

3.3. Prescribed Bodies

Irish Water: Further information required regarding the submission of a detailed watermain layout.

3.4. Third Party Observations

There are three third party submissions noted on the PAs file as follows:

3.4.1. Kieran & Josephine Rodgers:

- The entrance to the estate was to be at the western end, off the Blarney Road. The current entrance is temporary and third party objects to this becoming permanent.
- It is requested that the stone wall be continued and the existing railings be replaced with higher railings.
- The proposed (original) layout does not take into consideration the layout of the existing estate and goes against all that was proposed when residents purchased their homes.

3.4.2. Mile Stream Residents:

- The proposed development does not accord with the original layout for the Mile Stream Development – original layout submitted. Third party objects to the separation into two individual developments.
- As per purchase deeds, the existing residents have rights of way over the estate common areas including the subject site.

- Main entrance is to be located on the western end of the site and the existing entrance was to be temporary. This area has been subject to anti-social behaviour.
- House numbers raised as a concern.
- The existing railings on the estate boundaries have been proven to be unfit for purpose.

The submission includes a number of enclosures.

3.4.3. Cllr Tony Fitzgerald:

Cllr. Fitzgerald seeks to support the third party concerns and refers to the introduction of numerous public extinguishment projects to restrict access to estates through one entrance which has facilitated traffic management and the addressing of anti-social behaviour.

4.0 Planning History

4.1. The following is the planning history associated with the subject site:

- 4.1.1. **TP00/24704** Permission Refused by CCC for residential development comprising of 44 houses and 37 apartments.

The reason for refusal considered that the development would result in a layout of building of varying one, two and three storey's in height on elevated lands, which would dominate the natural character of the area thereby contravening development plan objectives. In addition, the development would adversely affect the setting and character of the adjacent landmark protected structure, the former Our Lady's Hospital.

- 4.1.2. **Part 8** Permission granted for 347 residential units under a Part 8 permission in December 2005. Most of the existing development to the south and south east of the subject appeal site appear's to have been constructed under this Part 8 permission. There was a subsequent Part 8 permission granted in March 2008 for amendment to the previous permission including change of house type amendment to road layout.

4.2. Adjacent sites

- 4.2.1. **PL 28.247708 / Reg. Ref. 16/37009:** Concurrent Application. Permission sought and granted by the PA. to construct 8 dwellings at Mile Stream, Shanakiel, Cork, including all associated site development and landscaping works. Permission granted by the Board on appeal.
- 4.2.2. **PL 28.221883 / Reg. Ref. 06/31414** Retention Permission Refused (June 2007) for temporary deposition of excess excavated material (soil & stone), erection of temporary storage building and associated site works (all to service the adjoining residential development). The reason for refusal states as follows:

‘The site is located in a Ridge Protection Zone where policy NHR 5 seeks to preserve and enhance the landscape character and visual amenity of the area under the provisions of the current development plan. The proposed development seeks to retain a temporary storage building and deposition of material on but part of a more extensive area of unauthorised development. It is considered that, by reason of significant visual obtrusiveness and an absence of dust suppression measures, the development to be retained, which includes the storage building erected partly on the unauthorised deposit, would materially contravene the said policy objective in the development plan, seriously injure the amenities of the area and of property in the vicinity. The retention of the proposed development would, therefore, be contrary to the proper planning and sustainable development of the area’.

5.0 Policy Context

National Policy / Guidelines

- 5.1. **Sustainable Residential Development in Urban areas, Guidelines (DoEHLG, 2009):**
- 5.1.1. 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.

5.1.2. 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.

5.1.3. 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.

5.2. Design Manual for Urban Roads and Streets (DEMURS), DoTTS, March 2013

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 implementation of DMURS is obligatory and divergence from same requires

written consent from relevant sanctioning authority (NRA, NTA or DTT&S). The Manual seeks to address street design within urban areas (i.e. cities, towns and villages) and it sets out an integrated design approach.

5.3. Development Plan:

- 5.3.1. The Cork City Development Plan 2015 – 2021 is the statutory Development Plan for the city of Cork. 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.
- 5.3.2. 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.
- 5.3.3. The site is also located within an area 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.....'
- 5.3.4. 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 of Chapter 16 deals with Urban Design and provides guidance in terms of design & layout, density, plot ratio and public open spaces amongst others. Section 16.23 refers to Gated Streets while objective 16.5 states that 'The City Council will not support proposals for gated streets and spaces.'
- 5.3.5. 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.

5.4. Natural Heritage Designations

The subject site is located at a distance of approximately 14km from the nearest cSAC, Great Island Channel, cSAC Site Code 001058, and 6km from the Cork Harbour SPA, Site Code 004030. The site is not located within any designated site.

6.0 The Appeal

This is a third party appeal from the residents of Mile Stream, Shanakiel, Cork.

6.1. Grounds of Appeal

The submission presents a background to the overall development of the Mile Stream Development. The appeal specifically relates to the inclusion of condition 2 in the PAs grant of planning permission the grounds of appeal are summarised as follows:

- Condition 2 requires that a pedestrian access be retained in the place of the current vehicular entrance to Mile Stream. It is requested that this pedestrian entrance be omitted for the following reasons:
 - Mile Stream residents are constant victims of high levels of anti-social behaviour and crime. The location of the gate / entrance facilitates these issues. The appeal submission includes letters from Neighbourhood Watch and the Garda Crime Prevention Office supporting this argument.
 - Cllr. Fitzgerald has had success in the 'One Way In – One Way Out' system in the city and has resulted in the closure of many lanes, alleyways and double entry points within housing estates. The Mile Stream residents want the same system implemented which would require this condition to provide a pedestrian entrance as proposed to be abolished.

- The existing pedestrian entrance into Mile Stream from the Blarney Road has had to be welded shut due to vandalism and anti-social behaviour.
- The estate contains a private playground. The proposed gate will continue to attract other children to the playground where the equipment has been vandalised and destroyed. Concern regarding a possible compensation claim should someone be hurt.
- The original plan for the estate was that it would be a private managed gated estate.
- Closure of the entrance is in the best interests of both current and future residents.

Further to the above, the appellant requested clarification on two very important issues raised during the PAs assessment of the proposed development. These issues are:

- The future management of the Mile Stream Estate. It is the preference of the residents of the estate that the development as a whole is taken in charge by Cork City Council.
- The designation of the 40 units for phase 2 of Mile Stream is questioned. The original submission by the Receiver suggested that a limited number of houses will be allocated to social / affordable housing and the remaining will be sold separately. The submission of 23/12/2016 states that the most likely scenario is working with a social housing body to develop the scheme for social and affordable housing. It is submitted that there is a valid argument against allocating all 40 units to social housing considering it would completely conflict with the original plan that residents signed up for.

6.2. Applicant Response

The first party has responded to the third party appeals as follows:

- With regard to the taking in charge of the estate, it is submitted that once the development starts, the previous Part 8 permission can no longer be implemented, gated developments are no longer supported by CCC and the inclusion of the pedestrian route acknowledges this. The Receivers would

welcome the inclusion of a condition that the entire development be completed to a standard to allow it to be taken in charge by the City Council.

- In terms of existing infrastructure, there are acknowledged deficits in the drainage system and the receiver is committed to carrying out remedial works as soon as possible. A schedule of works is being prepared to ensure completion to a standard that would allow CCC to take it in charge.
- With regard to the pedestrian entrance on the southern boundary, having the estate taken in charge would resolve the liability issues raised by the appellants. The receivers support the residents in asking for the pedestrian route to be removed. The removal of the pedestrian access would limit the potential for disturbances and anti-social behaviour within the Mile Stream estate.

6.3. Planning Authority Response

The PA has responded to this third party appeal, advising no further comments.

6.4. Observations

None

6.5. Further Responses

None

7.0 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 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 can be assessed under the following headings:

1. Compliance with National Guidelines & Standards & Planning History
2. General Compliance with the Limerick City Development Plan & General Development Standards
3. Roads & Traffic
4. Water Services
5. Condition 2 issues
6. Other issues
7. Appropriate Assessment

7.1. Compliance with National Guidelines & Standards & Planning History:

Sustainable Residential Development in Urban Areas (DoEHLG, 2008)

- 7.1.1. 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 38 dwelling units on a site covering approximately 1.328ha 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 of site and its location within the context of the overall area, I have no objection to the proposed density of same.

7.1.2. The subject site constitutes part of the wider, and established, Mile Stream and Ard Sionnach residential areas, accessed off Blarney Road. The site itself essentially comprises phase 2 of the Mile Stream development which was originally granted planning permission for the development of 107 residential units as part of a Part 8 Process in 2005.

7.1.3. 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 5.1 of this report and I consider it reasonable to address the proposed development against same.

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

In terms of private open space, the Board will note that proposed development layout, as permitted, provides for some rear gardens having less than a depth of 10m, 8m in places. The depths are presented on the site layout plan as greater, but includes the stone wall and the footpath on the wider estate road. The area afforded to a number of the proposed houses is below the Cork City Development Plan requirements of between 48-60m² for townhouses / terraced houses, detached / semi-detached houses 1-2 beds, 60-75m² is required for 3-5 bed houses in suburban areas. I am satisfied that minor amendments to the proposed site layout would improve this issue, but the issue of public open space requires to be considered in the first instance.

With regard to public open space, the proposal as amended and permitted, provides for an area of open space to be located to the centre of the estate and to the south of the proposed access road. This area of open space is approximately 810m². A second area of public open space is located to the north east area of the site, with an approximate area of 330m², giving a total of 1140m². The area of the total site is 1.328ha and as such, the area of public open space as proposed is well below 10% requirement. The City

Development Plan requires that greenfield sites provide 15% public open space, with a general provision of 10% required.

That said, I accept that the proposed development can be considered as Phase 2 of the original Mile Stream residential development where Phase 1 includes an area of open space, as well as a playground area. As such, it might be considered that the proposed open space provision is acceptable. The proposal, as permitted, provides for an essentially straight road from the entrance to the Phase 1 area of the wider estate. To the north of this estate road, there will be a 2m high wall which will enclose the rear garden areas of houses 22 and 28. In an effort to 'overlook' the open space, the Board will note that the applicant has included gable windows, with the 2m high wall only enclosing the rear garden areas. Overall, I am satisfied that the proposed development is acceptable.

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 amended layout as presented in the course of the PAs assessment of the development, I consider that the overall development will improve the existing residential amenities of the area through the provision of an appropriate access to the Mile Stream estate, and to improve the level of public open space.

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.

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.

- 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.

- 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 or Architectural Conservation Area in proximity to the subject site.

- 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.

- 7.1.4. Having regard to the above, I consider that 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.

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

- 7.2.1. The development before the Board provides for the construction of a residential development comprising 38 units with associated roads, open spaces and services. The subject site is currently brownfield in its nature given that hardcore has been placed on the site as part of the original permission and construction works associated with that original permission affecting the site. The Cork City Development Plan 2015 – 2021 is the statutory Development Plan for the city of

Cork. The subject site is located within the eastern area of Cork City. 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.

- 7.2.2. 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 38 residential units in the form of primarily 3 bedroomed houses and a number of 2 bed, semi-detached and terraced houses.
- 7.2.3. 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.
- 7.2.4. 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.

7.2.5. 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.

7.2.6. 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.
 - In terms of the proposed design of the houses, the Board will note that planning permission was previously granted for the site which incorporate similar designs as presented. I am satisfied that the proposed house designs are acceptable. I have no objections to the proposed house designs and if permitted, are unlikely to have any impact on the existing character of the wider Mile Stream and Shanakiel area.
 - I have discussed matters in relation to public open space above. 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 proposed mix. The City Development Plan seeks the provision of dwellings with 3/3+ bedrooms in order to achieve balanced communities. Given the residential nature of the area in the vicinity of the subject site, I consider that the proposed provision of 2, 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. I am satisfied that the development as proposed is acceptable and appropriate to this residential area.

7.2.7. 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.

7.3. Roads & Traffic:

7.3.1. Access to the subject site is proposed over the existing and permitted road network in the vicinity, from Blarney Road to the north and on Cross Ridge Road which serves the wider residential developments to the south and south east of the site. 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 (DMURS), 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.

7.3.2. 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, placed-based, self-regulations 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.

7.3.3. 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 Board will note that the original proposed site layout was amended and that this original layout would not have complied with the requirements of DMURS. In terms of the amended and permitted layout, I consider that the proposed development has adequately sought to apply design standards with regard to the proposed access roads, junctions and footpaths, with particular regard to the priority hierarchy. As such, I consider that the development as proposed, adequately complies with DMURS.

7.3.4. In terms of the construction phase of the proposed development, I accept that there will be some impacts to existing users. However, I am satisfied that these impacts are generally temporary in nature. The Board will note that the zoning of the subject site, together with the planning history associated with the site, affords potential for a residential development.

7.3.5. 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 the wider Shanakiel area and the carrying capacity of either the Cross

Ridge Road or Blarney Road by reason of the additional traffic resulting from the proposed development.

7.4. **Water Services**

The proposed development will connect to existing services which serve the racecourse lands and is the nearest available outflow point. The public system appears to have adequate capacity to accommodate the proposed development and Irish Water has indicated no objections on these grounds.

7.5. **Condition 2 Issues:**

- 7.5.1. The primary issue in relation to the permitted development, which the third party appellant generally supports, relates to the retention of a pedestrian access onto Cross Ridge Road. It is submitted that this entrance will continue to facilitate ongoing anti-social behaviour which the residents have experienced in the past. The Planning Authority has included the condition on the basis that the current City Development Plan does not support 'Gated' developments and that the inclusion of a pedestrian access will facilitate permeability for pedestrians using public transport in accordance with the National Transport Authority *Permeability Best Practice Guide* (NTA, 2015). Section 16.23 of the Plan states:

'In general all streets and spaces should be accessible to the public and be designed to appropriate standards. Gated streets will not be appropriate in Cork City as they are exclusive by nature and therefore contrary to creating good places and good urban design. Exceptional circumstances will be considered only on clear urban design grounds.'

- 7.5.2. The Board will note that the original permitted layout for the overall site provided for a pedestrian access from Blarney Road, but no pedestrian access from Cross Ridge Road was proposed. The pedestrian access from Blarney Road is in place, but was locked on the date of my inspection. I also acknowledge the submission by Cllr. Fitzgerald in terms of his efforts to promote a 'One Way In – One Way Out' system, even though such efforts would appear to go against the official policy of the City Development Plan. In terms of the current proposal, I note that there is no proposal to alter the existing pedestrian access to the site from Blarney Road. This pedestrian

access will connect to the proposed vehicular access to the wider estate. In this regard, it might reasonably be considered that the development would be in compliance with objective 16.5 of the City Development Plan, even if condition 2 was amended to omit the pedestrian access as well as the vehicular access.

7.5.3. Having carried out my site inspection, I am inclined to agree with the third parties in this regard. The proposed development, with the existing pedestrian gate to the Blarney Road, adequately satisfies the requirements of the City Development Plan, as long as it is unlocked. This is a matter for the management of the wider estate. In this regard, I would be satisfied that condition 2 of the PAs grant of permission should be amended to include the closure of the pedestrian gate as well as the vehicular gate. The existing pedestrian gate onto the Blarney Road should be unlocked to satisfy the requirements of the City Development Plan.

7.6. **Other Issues:**

7.6.1. The third party appellant, in their appeal submission, makes reference to a couple of issues which they consider require clarification. These issues relate to the future management of the Mile Stream estate and the designation of the proposed units given the lack of clarity in the comments of the receiver.

- In terms of the future management of the estate, the Board will note that it is not common practice today to include conditions requiring management companies in house-only residential developments. I consider that the submission of the Receiver to the Board, dated 20th March, 2017, suggests that it is the intention for the local authority to take the overall estate in charge and that works to ensure the existing Phase 1 of the wider Mile Stream development is to the required standard for the taking in charge is proposed. I have no further comments to make in this regard.
- With regard to the submission of the appellant that it would be appropriate for the houses to be sold privately rather than wholly for social and affordable housing is not necessarily a matter for the Board. Subject to compliance with the requirements of Part V of the Planning & Development Act, 2000 as amended, the use of the development will be residential as proposed.

7.7. Appropriate Assessment

- 7.7.1. The closest European Sites are the Cork Harbour SPA (site code 004030) and the Great Island Chanel cSAC (site code 001058). The applicant has submitted an AA screening report which concludes that there would be no risk of significant negative effects on any European Site as a result of the proposed development, either alone or in combination with other plans or projects. The planning report on file concludes that appropriate assessment is not required.
- 7.7.2. Overall, and having regard to the extent of groundworks already carried out on the site as part of the wider permitted development, I consider it is reasonable to conclude on the basis of the information available that the proposal individually or in combination with other plans or projects, would not adversely affect the integrity of a Natura 2000 site having regard to the nature and scale of the proposed development and separation distances involved to adjoining Natura 2000 sites. It is also not considered that the development would be likely to have a significant effect individually or in combination with other plans or projects on a European Site.

8.0 Recommendation

I recommend that planning permission be granted for the proposed development for the following stated reasons.

9.0 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, the Board is 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. It is concluded that the development, would be acceptable in terms of 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, submitted the 2nd day of August 2016, as amended by further information submitted to the Planning Authority on the 22nd day of December, 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 existing vehicular and pedestrian access to the completed Phase 1 of the Mile Stream proposed development shall be permanently closed on completion of the access hereby permitted. Prior to the commencement of any development on site, full details for this area of the wider Mile Stream Estate, including landscaping and wall / boundary finish, shall be submitted to the Planning Authority for written agreement.

Reason: In the interests of the proper planning and development of the area.

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.

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;
 - (j) 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;
 - (k) Off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil;

- (l) 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 Blarney Road, shall be designed in accordance with the Design Manual for Urban Roads and Streets (DMURS).
- (b) The upgrade of the signalised junction with the Blarney Road shall be agreed with the Transportation Division of Cork City Council.
- (c) 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. 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.

9. 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.

10. 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.

11. 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.

A. Considine

Planning Inspector

29th May, 2017