



An  
Bord  
Pleanála

## Inspector's Report PL28.248168

### Development

The construction of a two storey single unit dwelling house, on lands to the rear of Menloe House, protected structure, (i.e. stone entrance and gates), Blackrock Road, a new vehicular entrance from No. 15 Berkley, Ballintemple, Cork, and all associated site works.

### Location

Lands at rear of Menloe Gardens, with entrance at No. 15 Berkley, Ballintemple, Cork City.

### Planning Authority

Cork City Council

### Planning Authority Reg. Ref.

16/37205

### Applicant(s)

Richard O'Driscoll & Matthew Maguire

### Type of Application

Permission

### Planning Authority Decision

Grant subject to conditions

### Type of Appeal

Third Party v. Decision

### Appellant(s)

Adrienne Gilnreiner & Others

### Observer(s)

None.

**Date of Site Inspection**

31<sup>st</sup> May, 2017

**Inspector**

Robert Speer

## 1.0 Introduction

- 1.1. The Board is advised to determine this appeal in conjunction with ABP Ref. No. PL28.248169 on the basis that they are located on immediately contiguous sites.

## 2.0 Site Location and Description

The proposed development site is located within an established residential area, approximately 3.0km east of Cork City Centre, in the outer suburb of Ballintemple between Menloe Gardens to the east and the Berkley housing estate to the south & west. The surrounding area is characterised by a variety of housing styles with Menloe Gardens being predominantly composed of older detached and semi-detached residences interspersed with more recent constructions whereas the lands to the immediate south and west within the Berkley housing scheme are dominated by more conventionally suburban detached two-storey housing. The subject site has a stated site area of 0.142 hectares, is irregularly shaped and would appear to comprise part of the rear garden area previously associated with Menloe House (a substantial detached two-storey period residence to the immediate north which is accessed via Blackrock Road) in addition to a vacant parcel of land which is used as a means of access from the Berkley estate (*N.B.* The stone entrances and gates at Menloe House are included in the Record of Protected Structures (Ref. No. PS522) in the Cork City Development Plan, 2015). The site is somewhat overgrown and unkempt and is visually separated from the remainder of the gardens attached to Menloe House by high hedging and trees. It is enclosed by a combination of various walling and is presently accessible via an existing access arrangement onto the Berkley housing estate.

## 3.0 Proposed Development

The proposed development consists of the construction of a contemporarily designed two-storey dwelling house with a stated floor area of 213.5m<sup>2</sup> and a ridge height of 8.955m. The overall design is based on two offset rectangular forms (sited along an east-west axis) with differing ridge levels. External finishes include blue / black roof slates, a painted sand / cement render and 'aluclad' windows of selected colour whilst the design also includes for extensive glazed areas, particularly along

its southern elevation in order to avail of passive solar gain. Access to the site will be obtained via a new access arrangement to be shared with the development proposed on the adjacent site to the immediate west (PA Ref. No. 16/37204 / ABP Ref. No. PL28.248169) which will extend north-eastwards from a redeveloped entrance onto the Berkley housing estate. Water supply and sewerage services are available from the public mains.

Amended proposals were subsequently submitted by way of unsolicited additional information which sought to reposition the proposed dwelling house on site thereby increasing the separation distance from the eastern site boundary by 3m. These revisions also sought to omit the first floor high level window serving the master bedroom within the eastern elevation of the proposed dwelling house.

*N.B.* It is unclear if the subject proposal has obtained a Certification of Exemption pursuant to the provisions of Section 97 of the Planning and Development Act, 2000, as amended.

## **4.0 Planning Authority Decision**

### **4.1. Decision**

On 17<sup>th</sup> February, 2017 the Planning Authority issued a notification of a decision to grant permission for the proposed development subject to 20 No. conditions. These conditions are generally of a standardised format and relate to issues including landscaping, construction management, infrastructural services and development contributions, however, the following conditions are of note:

Condition No. 2 – Requires the first floor bedroom window within the eastern elevation of the proposed dwelling house to be omitted with revised drawings detailing same to be agreed in writing with the Planning Authority prior to the commencement of development.

Condition No. 3 - Requires the proposed dwelling house to be relocated 3m westwards away from the eastern site boundary with revised drawings detailing same to be agreed in writing with the Planning Authority prior to the commencement of development.

Condition No. 9 - Requires all the proposed vehicular and pedestrian access points to be designed in accordance with the provisions of the 'Design Manual for Urban Roads and Streets' with the exact details of same to be agreed with the Planning Authority prior to the commencement of development.

Condition No. 14 – Prohibits any private common drains and states that individual drainage arrangements are to be made for both the subject proposal and the dwelling house proposed under PA Ref. No. 16/37204.

Condition No. 15 – Requires the submission of written evidence of agreement with all affected landowners should any drainage be required to be routed through private property to the Planning Authority prior to the commencement of development. Any such agreements are required to be make reference to the landowner's consent to allow such works to take place and to allow a permanent right of access to the applicant to maintain all the drains constructed by such works and to maintain all private drainage downstream of such drains.

## 4.2. Planning Authority Reports

### 4.2.1. Planning Reports:

Notes that there is a concurrent planning application for a similar two-storey dwelling house on the adjoining site to the immediate west (PA Ref. No. 16/37204) and that permission was previously granted for 3 No. detached dwellings on site pursuant to ABP Ref. No. PL28.123759. The report proceeds to state that the proposed dwelling house is set back c. 5.7m from the eastern site boundary and that there is a separation distance of 23.25m between the opposing first floor windows of the proposed dwelling and those residences located along Menloe Gardens. It is further stated that there is sufficient room on site to relocate the proposed dwelling further west away from the eastern site boundary and that this issue could be addressed by way of condition. The report subsequently concludes that the proposed development will not give rise to any overlooking or overshadowing of adjoining properties and

that it will not have any serious negative impact on the visual or residential amenities of the area.

4.2.2. Other Technical Reports:

*Environment:* No objection, subject to conditions.

*Roads Design:* No objection, subject to conditions.

*Drainage Division:* No objection, subject to conditions.

4.3. **Prescribed Bodies**

*Irish Water:* No objection, subject to conditions.

4.4. **Third Party Observations**

A total of 3 No. submissions were received from interested third parties and the principle grounds of objection contained therein can be summarised as follows:

- Detrimental impact on the residential amenity of neighbouring properties by reason of overshadowing and overlooking with an associated loss of privacy.
- The proximity of the proposed development to neighbouring dwelling houses.
- The overall height and visual impact of the proposed development relative to surrounding properties, including Menloe House.
- The inadequacy of the details provided as regards planting / screening on site.
- The address provided is incorrect as House No. 15 is located on the southern side of the Berkley estate between House Nos. 13 & 17.
- The parameters for the development of the site as previously established under ABP Ref. No. PL28.123759 have been ignored.
- Concerns with regard to the safety of the wall along the eastern site boundary during construction of the proposed development.

## 5.0 Planning History

### On Site:

PA Ref. No. 00/24087 / ABP Ref. No. PL28.123759. Was granted on appeal on 27<sup>th</sup> September, 2001 permitting Fachtna O'Driscoll permission for a development comprising the construction of 3 No. houses with car parking for residential use.

### On Adjacent Sites:

PA Ref. No. 0529739. Was granted on 19<sup>th</sup> August, 2005 permitting Mr & Mrs Ed Crosbie permission to demolish existing garage and to construct alterations and extension to house at Summerlea, Menlow Gardens, Blackrock, Cork.

PA Ref. No. 0732477. Was granted on 3<sup>rd</sup> December, 2007 permitting Mark Higgins permission for the part demolition of both the existing single and 2 storey structures to the northern side and to the rear of dwelling house and the construction of a two storey extension in its place at Derrylea, Menloe Gardens, Blackrock, Cork.

PA Ref. No. 1637204 / ABP Ref. No. PL28.248169. On 17<sup>th</sup> February, 2017 a notification of a decision to grant permission was issued by the Planning Authority to Clodagh O'Driscoll for the construction of a two-storey single unit dwelling house, on lands to the rear of Menloe House, protected structure, (i.e. stone entrance and gates), Blackrock Road, a new vehicular entrance from No. 15 Berkeley, Ballintemple, and all associated site works on lands at the rear of Menloe House and driveway at No. 15 Berkeley, Ballintemple, Cork. This application is presently on appeal and a decision is pending with the Board.

### On Sites in the Immediate Vicinity:

PA Ref. No. 16/36780 / ABP Ref. No. PL28.246637. Was granted on appeal on 29<sup>th</sup> September, 2016 permitting Conor and Deirdre Clune permission for the construction of three number detached dwelling houses comprising of the following: (1) a single storey detached dwelling house, (2) 2 No. two storey detached dwelling houses, one of which includes a separate single storey detached games/store room, (3) permission is also sought for a revised entrance arrangement to the new dwellings, comprising the removal and relocation of the existing double entrance to the existing dwelling and adjacent lands, as well as the removal and relocation of the entrance and boundary wall to the adjacent dwelling to the eastern side, Walnut

Grove and (4) landscaping and all ancillary site development works at 144 Blackrock Road/Lands adjacent to 144 Blackrock Road, Ballintemple, Cork.

## 6.0 Policy Context

### 6.1. National and Regional Policy

The *'Sustainable Residential Development in Urban Areas, Guidelines for Planning Authorities, 2009'* note that in general, increased densities should be encouraged on residentially zoned lands and that the provision of additional dwellings within inner suburban areas of towns or cities, proximate to existing or due to be improved public transport corridors, has the potential to revitalise areas by utilising the capacity of existing social and physical infrastructure. Such developments can be provided either by infill or by sub-division. In respect of infill residential development potential sites may range from small gap infill, unused or derelict land and backland areas, up to larger residual sites or sites assembled from a multiplicity of ownerships. In residential areas whose character is established by their density or architectural form, a balance has to be struck between the reasonable protection of the amenities and the privacy of adjoining dwellings, the protection of established character and the need to provide residential infill.

The *'Architectural Heritage Protection, Guidelines for Planning Authorities, 2004'* provide detailed guidance in respect of the provisions and operation of Part IV of the Planning and Development Act, 2000, as amended, regarding architectural heritage, including protected structures and Architectural Conservation Areas. They detail the principles of conservation and advise on issues to be considered when assessing applications for development which may affect protected structures and development within their curtilage or attendant grounds.

### 6.2. Development Plan

#### **Cork City Development Plan, 2015-2021:-**

##### Land Use Zoning:

The proposed development site is located in an area zoned as *'Residential, Local Services and Institutional Uses'* with the stated land use zoning objective *'To protect*



*and provide for residential uses, local services, institutional uses, and civic uses, having regard to employment policies outlined in Chapter 3'.*

*Explanatory Note: 'Residential, Local Services and Institutional Uses':*

The provision and protection of residential uses and residential amenity is a central objective of this zoning, which covers much of the land in the suburban area. However other uses, including small scale local services, institutional uses and civic uses and provision of public infrastructure and utilities are permitted, provided they do not detract from residential amenity and do not conflict with the employment use policies in Chapter 3 and related zoning objectives. Small scale 'corner shops' and other local services such as local medical services, will be open for consideration. Schools, third level education institutes, and major established health facilities are located within this zone and appropriate expansion of these facilities will be acceptable in principle. The employment policies in Chapter 3 designate particular locations for offices, office based industry, major retailing development and these uses are not generally permitted in this zone (Chapter 3: Enterprise and Employment). New local and neighbourhood centres or expansion of same are open for consideration in this zone provided they meet the criteria for such centres set out in Chapter 4.

*Other Relevant Sections / Policies:*

*Chapter 6: Residential Strategy:*

Objective 6.1: *Residential Strategic Objectives:*

- a) To encourage the development of sustainable residential neighbourhoods;
- b) To provide a variety of sites for housing to meet the various needs of different sections of the population;
- c) To continue to work with the Approved Housing Bodies and to actively engage with all key stakeholders in the provision of housing;
- d) To continue to regenerate and maintain existing housing;
- e) To encourage the use of derelict or underused land and buildings to assist in their regeneration;

- f) To promote high standards of design, energy efficiency, estate layout and landscaping in all new housing developments;
- g) To protect and, where necessary, enhance the amenities and the environment of existing residential areas.

*Chapter 9: Built Heritage and Archaeology:*

Objective 9.1: *Strategic Objectives: Built Heritage and Archaeology:*

- a) To promote the protection of the heritage of the city and the implementation of the Heritage Plan;
- b) Ensure that elements of archaeological, architectural and other cultural significance are identified, retained and interpreted wherever possible and the knowledge placed in the public domain;
- c) Promote the retention reuse, and enhancement of buildings and other elements of architectural or other significance;
- d) Ensure that development reflects and is sensitive to the historical importance and character of the city, in particular the street layout and pattern, plot sizes, building heights and scales;
- e) Improve and encourage access to and understanding of the architectural heritage of the city.

Objective 9.29: *Architectural Conservation Areas:*

To seek to preserve and enhance the designated Architectural Conservation Areas in the City.

Objective 9.30: *Demolition in Architectural Conservation Areas:*

Demolition of structures and parts of structures will in principle only be permitted in an Architectural Conservation Area where the structure, or parts of a structure, are considered not to contribute to the special or distinctive character, or where the

replacement structure would significantly enhance the special character more than the retention of the original structure.

Objective 9.31: *Recording of Structures in Architectural Conservation Areas:*

Where in exceptional circumstances a structure or a part of a structure which is considered to contribute to the special character of the area, is permitted to be demolished, it should first be recorded prior to demolition, and where appropriate should be monitored during demolition.

Objective 9.32: *Development in Architectural Conservation Areas:*

Development in ACAs should take account of the following:

- Works that impact negatively upon features within the public realm such as paving, railings, street furniture, kerbing etc. shall not be generally permitted;
- Acceptable design, scale, materials and finishes for new developments;
- Original materials and methods of construction should be retained. For example, timber barge boards, windows and doors should not be replaced with PVC, original roofing material types should be retained along with original forms and locations of openings etc.;
- Features of historic or architectural value should not be removed.

*N.B.* The proposed development site is located within ‘*The Blackrock Road Proposed Architectural Conservation Area*’.

*Chapter 16: Development Management:*

*Section 16.59: Infill Housing:*

To make the most sustainable use of existing urban land, the planning authority will consider the appropriate development of infill housing on suitable sites on a case by case basis taking into account their impact on adjoining houses, traffic safety etc. In general, infill housing should comply with all relevant development plan standards for

residential development, however, in certain limited circumstances; the planning authority may relax the normal planning standards in the interest of developing vacant, derelict and underutilised land. Infill proposals should:

- Not detract from the built character of the area;
- Not adversely affect the neighbouring residential amenities;
- Respect the existing building line, heights, materials and roof profile of surrounding buildings;
- Has an appropriate plot ratio and density for the site;
- Adequate amenity is proposed for the development.

Section 16.132: *Architectural Conservation Areas*:

The requirements for planning application documentation for development within Architectural Conservation Areas and for their subsequent assessment are set out in the Architectural Heritage Protection Guidelines (DOEHLG, 2004). Further refinement in respect of development management policies will be provided through subsequent special planning control schemes detailing relevant development requirements for each selected area. The overall guiding principle is positive enhancement of the unique qualities that make a place special because of its particular character. Detailed policies are set out in Chapter 9: Built Heritage and Archaeology (paragraph 9.14-9.29).

### 6.3. **Natural Heritage Designations**

None.

## 7.0 **The Appeal**

### 7.1. **Grounds of Appeal**

- The decision to submit 2 No. separate applications for 2 No. inter-related dwellings on what is essentially a single planning unit complicates the assessment of the proposed development and the possible achievement of a satisfactory response to the concerns raised.

- In its previous determination of PA Ref. No. 00/24087 / ABP Ref. No. PL28.123759 (which concerned a proposal to develop 4 No. dwelling houses on the subject site), the Board imposed a condition which required the omission of the easternmost dwelling house with the area thus freed from development to be incorporated into the garden space of the dwelling house immediately to the west. The reason for the inclusion of this condition was *'in the interests of residential amenity'* and it was clearly imposed on the basis that a setback of the building line was necessary to protect the amenities of the appellants' properties which adjoin the eastern site boundary. Therefore, Condition No. 3 of ABP Ref. No. PL28.123759 has established that the eastern building line for any development on the subject site should be c. 13m from the boundary shared with Menloe Gardens.
- Having regard to the current land use zoning and the site location within the newly designated Blackrock Architectural Conservation Area, in addition to the applicable policy provisions set out in the Cork City Development Plan, 2015 (including those pertaining to infill development and architectural conservation), it is considered that a greater obligation is now placed on the planning authority to protect the residential amenity of the adjoining properties in Menloe Gardens than was the case when permission was previously granted under ABP Ref. No. PL28.123759. Therefore, there is no valid basis on which to relax the standards that were imposed on the previous grant of permission by allowing a significant deviation from the building line then imposed by the Board.
- The references in the planning file to the grant of permission issued in respect of ABP Ref. No. PL28.123759 are inconsistent in that they refer to permission having been granted for 3 No. and 4 No. dwelling houses. Furthermore, the key fact that the Board decided to modify the original decision of the Planning Authority by omitting one of the four dwelling units has not been explicitly acknowledged or addressed in the assessment of the subject application. The Planner's Report states the following:
 

*'I note the planning history of the overall site where permission was granted for 3 No. detached two storey dwellings on the site. The dwelling*

*on the application site is set back c. 5.7m from the eastern boundary with a distance of 23.25m between the first floor opposing windows of the application site and the dwellings at Menloe Gardens. I note third party submissions submitted. There is sufficient room to move the dwelling further west way from the western boundary. This issue can be addressed by condition’.*

It is considered that the foregoing gives rise to the following questions:

- Whether the Planning Authority overlooked the fact that the Board had overturned the City Council’s previous decision in regard to the set back from the eastern boundary or whether it deliberately decided to ignore the precedent and to specify a reduced set back.
- Whether the Planning Authority intends Condition No. 3 of the notification of the decision to grant permission for the subject proposal to require:
  - i. A setback of 3m from the existing eastern boundary.
  - ii. An additional setback of 3m as compared to the layout submitted by the applicant on 16<sup>th</sup> December, 2016 which would give an overall setback of 5.4m from the eastern boundary.
  - iii. An additional setback of 3m as compared to the revised layout submitted on 30<sup>th</sup> January, 2017 which would give an overall setback of 8.71m from the eastern boundary.

The notification of the decision to grant permission issued in respect of the subject proposal requires the development to be carried out in accordance with the plans and particulars submitted with the application on 16<sup>th</sup> December, 2016 as modified by Condition No. 3 which requires *‘the proposed dwelling [be] relocated 3m west on the application site away from the eastern boundary’*. It is submitted that this decision must be taken at face value and without reference to any intention of the technical reports. The correct interpretation of Condition No. 3 is that it requires the separation distance from the eastern boundary to be increased from 2.4m

as detailed on the site layout plan received on 16<sup>th</sup> December, 2016 to 3m (a difference of only 600mm).

The planner's report does not directly reference the unsolicited further information received on 30<sup>th</sup> January, 2017 which sought '*to modify the location of the proposed dwelling so that it is centred on the site which will increase the separation distance to the eastern boundary by circa 3m*'. This submission included a revised site layout which increased the minimum separation distance from the eastern boundary from 2.4m to 5.71m, however, the recommendation by the case planner to grant permission is based on the modified drawings of 30<sup>th</sup> January, 2017 which show a revised setback of 5.71m. Therefore, it would appear that the intention of the area planner was that Condition No. 3 would require the revised setback proposed by the applicants to be increased by a further 3m to 8.71m.

- There is a lack of clarity as regards the interpretation of Condition No. 3 of the notification of the decision to grant permission as issued by the Planning Authority which would appear to require the proposed dwelling to be set back only 3m from the common site boundary with Menloe Gardens. This is significantly less than what the applicants were prepared to accept (5.71m) and what the case planner intended to impose (8.71m).
- A setback of 8.71m would not be sufficient to mitigate the impact on Menloe Gardens and there is no valid reason why the separation distance of 13m as previously prescribed by the Board should not be maintained.
- It is considered that a proper analysis of the precedent set by ABP Ref. No. PL28.123759 is essential to any consideration of the appropriate separation distance between the proposed dwelling houses and those residences along Menloe Gardens and in this regard it is submitted that the 13m building line required by ABP Ref. No. PL28.123759 should be respected *res judicata*. It is further submitted that the Planning Authority has failed to provide adequate reasons and considerations for its decision to permit a reduction in the permissible separation distance between the proposed and existing dwelling houses.

- The layout and design of the concurrent planning applications (PA Ref. Nos. 16/37205 & 16/37204) precludes any achievement of the separation distance from the eastern site boundary as previously imposed by ABP Ref. No. PL28.123759. A separation distance of 13m from the boundary could not be achieved without either:
  - a) Increasing the width of the eastern site by c. 3m; or
  - b) Revising the design of the eastern dwelling house.

It would be difficult to impose a satisfactory solution by way of condition and therefore, the Board should issue a notice under Section 131 of the Act inviting the applicants to submit revised proposals detailing how the eastern building line previously specified by the Board in ABP Ref. No. PL28.123759 will be achieved.

- The Planning Authority's assessment of the impact of the subject proposal on Menloe Gardens has been hampered by the topographical survey provided with the application which only shows adjoining development to the south of the site with the only survey data pertaining to Menloe Gardens comprising a textual a note on the ridge and soffit heights of one of those houses.
- Due to the inadequate site survey, the contextual elevations only address the impact on the Berkley estate and do not allow for a proper assessment of the impact on the residential amenity of Menloe Gardens.
- The subject application should have been invalidated on the basis that the elevational drawings failed to show *'the main features of any buildings which would be contiguous to the proposed structure if it were erected'* contrary to the requirements of Article 23(1)(d) of the Planning and Development Regulations, 2001, as amended.
- A proper site survey would have revealed the presence of an ancillary residential unit within the grounds of 'Summerlea', Menloe Gardens, which immediately adjoins the site boundary. This chalet may have been an original feature of Menloe Gardens and is evident in photographs taken in



the 1930s. The potential impact on this structure is a valid planning concern as it has a long-established use as an independent dwelling unit.

- The existing wall along the common boundary with Menloe Gardens appears to be an original feature. While it was originally built in mass concrete it may now be structurally unsound due in part to its age and also given the fact that in recent years its height has been increased through the addition of three courses of concrete blocks.
- The subject application does not address the issue of boundary treatment and simply states that the existing boundary treatment is to be retained. In this respect it is considered essential that the boundary issue be properly assessed prior to any grant of permission for the following reasons:
  - a) The wall is in poor condition and may be destabilised if construction works are carried out within 3m as provided for under Condition No. 3 of the notification of the decision to grant permission as issued by the Planning Authority.
  - b) It may be necessary to reduce the proposed floor and ground levels to the west of the wall to mitigate the visual impact of the proposed dwellings.
  - c) Special consideration is required of the impact of any replacement wall on the ancillary dwelling unit at 'Summerlea' which abuts the existing wall.

## 7.2. Applicant's Response

- With regard to ABP Ref. No. PL28.123759, the assessment by the reporting inspector stated the following:

*'I note the potential for overlooking of adjoining property from rear bedroom windows at first floor and second floor (attic) level. Overlooking from bedroom windows at first floor area is a feature of development in the general area which is characterised by two-storey dwellings. Furthermore, I consider that the extent of such overlooking is limited by virtue of the fact that these windows serve bedroom accommodation which is not typically*

*occupied throughout the day. However, in the case of the windows at second floor level I consider that the angle view is such as to create a more severe problem of potential overlooking. Accordingly, I consider that a condition requiring the omission of these windows should be attached to any grant of planning permission’.*

In its subsequent decision to grant permission, the Board required the omission of the easternmost dwelling house in the interests of residential amenity through the imposition of Condition No. 2 as follows:

*‘The easternmost house in the proposed development shall be omitted and the area thus freed from development shall be incorporated into the garden space of the proposed house immediately to the west’.*

Accordingly, it is submitted that the appellants have misinterpreted the report and the decision made in respect of ABP Ref. No. PL28.123759 as it is clear from an examination of the file that the basis for the decision concerned the height, scale and orientation of the proposed structures i.e. three-storey dwelling houses with a stated floor area of 176m<sup>2</sup> and a ridge height of 9.62m which were to be individually aligned along a north-south orientation.

The subject proposal is substantially different in design, scale, orientation and massing in that it involves a two-storey unit with a ridge height of 8.805m which is set along an east-west alignment. The proposed dwelling house is divided into two elements in elevational terms, has no fenestration overlooking the appellants’ properties, and will not give rise to any loss of residential amenity.

- The assertion in the grounds of appeal that the subject proposal involves a significant deviation from a building line previously imposed by the Board under ABP Ref. No. PL28.123759 is without basis. No such building line was established nor was any such matter adjudicated on by the Board.
- With regard to the reference in the grounds of appeal to the criteria to be used in the assessment of infill development as contained in the Cork City Development Plan, 2015, it is suggested that the term ‘infill development’ is intended to refer to the provision of new dwellings on relatively

constrained sites. By way of comparison, it is submitted that the subject proposal involves the construction of a relatively small dwelling house on a reasonably large site and thus is more akin to an outer suburban or even rural development. Indeed, the subject application could be more accurately described as involving the development of a greenfield site. Notwithstanding the foregoing, it is submitted that the proposed development is well considered as regards minimising the impact on the residential amenity of neighbouring dwelling houses.

- Given the limited scale and one-off nature of the proposed development, in addition to its location to the rear of existing properties along Menloe Gardens, it is unclear how the subject proposal will have any impact on the architectural character of the area or the Blackrock Architectural Conservation Area.
- The proposed development is significantly lower in height than that previously permitted under ABP Ref. No. PL28.123759 and presents a narrow gable to the rear of Menloe Gardens. Accordingly, the subject proposal is considerably different to that approved under ABP Ref. No. PL28.123759 and any precedents established under that permission do not necessarily apply.
- With regard to the suggestion of a lack of clarity in relation to Condition No. 3 of the notification of the decision to grant permission, the Board is requested to note that this condition requires the submission of revised drawings for the agreement of the Planning Authority prior to the commencement of development. For the avoidance of doubt, the accompanying copies of the drawings submitted as unsolicited additional information show the location of the proposed dwelling as 5.71m from the eastern site boundary. This positioning achieves a separation distance of c. 23m between the proposed development and the rear facades of those properties along Menloe Gardens to the east.
- Although the generally accepted separation distance between first floor opposing windows is 22m, there are no windows within the eastern elevation of the proposed dwelling. The high level window within the

eastern gable which was to serve a bedroom has been removed by Condition No. 2 of the notification of the decision to grant permission.

- The request in the grounds of appeal to revise the site boundaries / site layout is based on an erroneous reference to a *'required separation distance of 13m from the eastern boundary'*. In this respect it is submitted that the location of the proposed dwelling house as clarified in the accompanying drawings is an appropriate response to the requirement to protect the residential amenity of neighbouring properties.
- The proposed dwelling house will be located 5.71m from the eastern boundary wall which is considered to be a reasonable separation distance in order to ensure that the proposed works do not impact on the wall.
- The condition of the existing wall along the eastern site boundary is a civil matter of no concern to the Board.
- It is unclear if the 'chalet' / 'ancillary residential unit' located in the grounds of 'Summerlea', Menloe Gardens, actually comprises a dwelling house. Instead, it is the applicant's belief that the structure in question is a Class 3 *'tent, awning, shade, or other object, greenhouse, garage, store, shed or similar structure'*. Therefore, the structure cannot be legally used for human habitation without a grant of planning permission.
- The site boundary is a direct reflection of the property title and the applicants have no control over the adjoining site. The decision of the applicant to submit a concurrent application under PA Ref. No. 16/37204 was to allow Cork City Council to review the aggregate impact of the proposed developments.
- There is no correlation between objectives of the Development Plan and an arbitrary separation distance as has been claimed by the appellants.
- It is proposed to locate the dwelling house 5.71m from the eastern site boundary (as detailed in Drg. No. 16007/02/2011/01).

### 7.3. Planning Authority's Response

- States that there is an error in Condition No. 1 as attached to the notification of the decision to grant permission as it should have included reference to the unsolicited further information received on 31<sup>st</sup> January, 2017 and should have stated the following:

*'The development shall be carried out in accordance with the plans and particulars submitted to the Planning Authority on 16/12/16, as amended by the plans and particulars submitted on 31/01/17, except where otherwise required by the conditions of this permission'.*

It is further considered that this should serve to clarify Condition No. 3 which requested that the dwelling be relocated 3m west of that proposed on the plans and particulars submitted on 31<sup>st</sup> January, 2017 thereby resulting in a separation distance of c. 8.7m from the eastern boundary wall.

- In its assessment of the subject application, the Planning Authority carried out its duties in accordance with the provisions of the Planning and Development Act, 2000, as amended, and the associated Regulations, and the decision to grant permission is consistent with the Cork City Development Plan, 2015 and the proper planning and sustainable development of the area.

### 7.4. Observations

None.

### 7.5. Further Responses

*Response to the Circulation of the Planning Authority's Submission:*

*Response of the Applicant:*

- The Board is requested to dismiss the change to Condition No. 1 sought by the Planning Authority and to confirm the site layout as submitted at further information stage.

- The site layout detailed in the unsolicited additional information is considered to be the most equitable solution for the following reasons:
  - The rear gardens of the properties to the east are in excess of 11m in depth.
  - Any reduction in overshadowing attributable to the repositioning of the proposed dwelling house 3m further west will be minimal. There is no additional amenity to occur to those properties to the east by moving the subject dwelling closer to the development proposed on the adjacent site to the west.
  - Having regard to *'BRE: Site Layout Planning for Daylight and Sunlight'*, and in light of the overshadowing analysis undertaken for the 3 No. site layout options now under consideration by the Board, it is apparent that the original proposal as submitted to the Planning Authority was acceptable as regards its impact on those properties to the east whilst the changes proposed in the unsolicited additional information, and as imposed by way of condition in the notification of the decision to grant permission, will serve to diminish the conditions for the site to the west with no material gain for the lands to the east. Therefore, the Board is encouraged to accept the original proposal as submitted, or the amended layout detailed in the unsolicited additional information at worst, as there is no merit in the revisions sought by the Planning Authority. It should also be noted that the foregoing demonstrates that issues pertaining to a 'building line' raised in the grounds of appeal are of no merit.
  - There are multiple planning precedents within Cork for a dense pattern of urban development in suburban locations, including ABP Ref. No PL28.246523.
  - Infill development is common in Cork City e.g. 14/36071, 13/35543, 12/35259 (ABP Ref. No. PL28.241605).
  - Permission was recently granted under ABP Ref. No. PL28.246689 for an infill development to the immediate northwest of the application site

whilst another notable infill consent in the area was issued under PA Ref. No. 15/36542

- There is no need to relocate the proposed dwelling house given that the eastern elevation has been designed so as to provide for no overlooking i.e. high level windows have been employed.
- The accompanying 'Shadow Casting Analysis' demonstrates that there is no material benefit for properties east of the site through the relocation of the proposed dwelling house further west.
- The layout detailed in the unsolicited additional information creates a balanced solution that does not result in any significant dis-amenity for the property to the east or for the proposed house to the west.

*Response of the Appellant:*

- The confirmation by the Planning Authority that there was an error in the wording of Condition No. 1 and that Condition No. 3 will require a setback from the eastern boundary of at least 5.7m is to be welcomed.
- It is disappointing that the Planning Authority has not commented on any of the other issues raised in the grounds of appeal as regards planning history or planning policy.
- It is submitted that the Planning Authority is obliged to give reasons and considerations for not imposing the building line previously sought by the Board under ABP Ref. No. PL28.123759.

*Response to the Circulation of the Applicant's First Submission:*

*Response of the Planning Authority:*

No further comments.

*Response of the Appellants:*

- The applicants have misinterpreted the Board's decision in respect of ABP Ref. No. PL28.123759 by failing to acknowledge that the inclusion of Condition No. 2 was not on the recommendation of the reporting inspector. That condition required the easternmost house to be omitted and the area thus freed from development to be incorporated into the adjoining garden

*'in the interests of residential amenity'*. The applicants have incorrectly implied that Condition No. 2 was inserted in order to prevent overlooking, however, it should be interpreted by reference to the inspector's rationale for the imposition of Condition No. 4. Condition No. 2 was imposed in order to deal with a new issue which had not been addressed by the reporting inspector and thus cannot be interpreted by reference to the inspector's report.

- The applicants have misinterpreted the planning policy framework by seeking to treat the curtilage of an inner suburban dwelling as if it was a greenfield or rural site.
- There is no valid basis to ignore the designation of the Architectural Conservation Area on the grounds of the small scale of the development. The purpose of the ACA is to introduce additional controls on the more detailed aspects of development to the extent that restrictions are imposed on development which might otherwise be exempt.
- It would appear that the applicants are attempting to exploit the confusion which has arisen as regards the site layout / separation distances by insisting on a layout which is unacceptable to the Planning Authority. The issue to be determined is whether the set back from the eastern boundary should be 8.7m as proposed by the Planning Authority or 13m as previously required by the Board. Neither the applicant nor the Planning Authority have provided valid reasons to deviate from the building line previously determined by the Board.
- The suggestion that the condition of the eastern boundary wall should be of no concern to the Board is contradicted by the inclusion of Condition No. 8 in ABP Ref. No. PL28.123759 wherein the Board required the submission of details of the boundary treatment to be agreed prior to the commencement to development *'in the interests of visual amenity'*.
- The existing chalet in the rear garden of 'Summerlea' was constructed and in use as an ancillary dwelling unit prior to 1<sup>st</sup> October, 1964. The applicants' submission is based on the incorrect assumption that the



chalet was built as an exempted shed under Class 3 of Part 1 of Schedule 2 of the Planning and Development Regulations.

*Response to the Circulation of the Applicant's Second Submission:*

*Response of the Planning Authority:*

No further comments.

*Response of the Appellants:*

- It is acknowledged that the cover report which accompanied the shadow casting analysis submitted by the applicants has extensively addressed the issue of overshadowing. However, it is reiterated that the applicants would appear to have misinterpreted the Board's decision-making in respect of ABP Ref. No. PL28.123759 by failing to acknowledge that Condition No. 2 (which required the easternmost dwelling house to be omitted and the area thus freed to be incorporated into the adjoining garden) was inserted by the Board *'in the interests of residential amenity'*. The applicants have either misinterpreted 'residential amenity' as 'overshadowing' or are of the opinion that residential amenity only concerns the issue of overshadowing. The term 'amenity' refers to the overall quality and character of an area and residential amenity is the benefit enjoyed from external space which is part of the private dwelling. There are many factors that contribute to or detract from residential amenity and it is submitted that the Board's inclusion of Condition No. 2 in ABP Ref. No PL28.123759 is not limited to overshadowing considerations.
- Whilst the applicants have suggested that they would have appealed the decision of the Planning Authority had they been informed of the error in Condition No. 1 of the notification of the decision to grant permission for the subject application, it is suggested that this would not have been the case as the applicants did not take issue with increasing the separation distance to the eastern site boundary by 3m by way of unsolicited additional information.
- The applicant is attempting to take advantage of the confusion caused by the error in the wording of Condition No. 1 by seeking to revert to the original site

layout. The clarification since provided by the Planning Authority has confirmed that it is seeking a separation distance of 8.7m from the eastern site boundary, however, the Council has not explained why it considers 8.7m to be an acceptable distance when the Board's previous decision under ABP Ref. No. PL28.123759 required a separation distance of 13m.

- The building line of the existing housing within the easternmost extent of the Berkley estate is set back 13m from the eastern boundary wall. The Board has further established this building line through the imposition of the conditions attached to ABP Ref. No. PL28.123759.
- Whilst acknowledging the applicants' concerns with regard to infill development, the Board is advised that Paragraph 16.59 of the City Development Plan states that *'the planning authority will consider the appropriate development of infill housing on suitable sites on a case by case basis taking account their impact on adjoining houses, traffic safety etc.'* It also states that infill proposals should:
  - Not detract from the built character of the area;
  - Not adversely affect the neighbouring residential amenities;
  - Respect the existing building line, heights, materials and roof profile of surrounding buildings.
- The *'Sustainable Residential Development in Urban Areas, Guidelines for Planning Authorities, 2009'* set the following parameters with regard to infill development:

*'In residential areas whose character is established by their density or architectural form, a balance must be struck between the reasonable protection of the amenities and privacy of adjoining dwellings, the protection of established character and the need to provide infill.'*

With regard to the various case references provided by the applicants, it is submitted that none of these are relevant in the present circumstances as ABP Ref. No. PL28.123758 is the applicable precedent in this instance.

## 8.0 Assessment

From my reading of the file, inspection of the site and assessment of the relevant local, regional and national policies, I conclude that the key issues raised by the appeal are:

- The principle of the proposed development
- Overall design and layout
- Impact on residential amenity
- Traffic implications
- Appropriate assessment
- Other issues

These are assessed as follows:

### 8.1. **The Principle of the Proposed Development:**

With regard to the overall principle of the proposed development, it is of relevance in the first instance to note that the subject site is located in an area zoned as 'ZO4: Residential, Local Services and Institutional Uses' with the stated land use zoning objective '*To protect and provide for residential uses, local services, institutional uses, and civic uses, having regard to employment policies outlined in Chapter 3*'. In addition to the foregoing, it should also be noted that the surrounding area is primarily residential in character and that the prevailing pattern of development is dominated by two-storey detached housing. In this respect I would suggest that the proposed development can be considered to comprise a potential infill site situated within an established residential area where public services are available and that the development of appropriately designed infill housing would typically be encouraged in such areas provided it integrates successfully with the existing pattern of development and adequate consideration is given to the need to protect the amenities of existing properties. Indeed, the '*Sustainable Residential Development in Urban Areas, Guidelines for Planning Authorities, 2009*' acknowledge the potential for infill development within established residential areas provided that a balance is struck between the reasonable protection of the amenities and the privacy of

adjoining dwellings, the protection of established character, and the need to provide residential infill.

Therefore, having considered the available information, with particular reference to the site context, and noting that permission was previously granted for the development of 3 No. dwelling houses within the wider site area (when taken in conjunction with PA Ref. No. 16.37204 / ABP Ref. No. PL28.248169) under PA Ref. No. 00/24087 / ABP Ref. No. PL28.123759, I am satisfied that the overall principle of the proposed development is acceptable, subject to the consideration of all other relevant planning issues, including the impact, if any, of the proposal on the amenities of neighbouring properties and the overall character of the wider area.

## 8.2. **Overall Design and Layout:**

The proposed development involves the construction of a contemporarily designed two-storey dwelling house and in this regard concerns have been raised in relation to the visual impact of the proposal on the character of the surrounding area, particularly in light of the site location within the Blackrock Road Architectural Conservation Area and its proximity to / relationship with Menloe House to the immediate north.

With regard to the overall design of the proposed dwelling house, whilst I would acknowledge that the submitted proposal is somewhat more contemporary in appearance than the prevailing pattern of development and that its ridge height will exceed that of existing housing within both the Berkley housing estate and Menloe Gardens, having regard to the site context (with particular reference to its backland nature and the screening offered by surrounding properties), the more conventional pattern of development to the immediate south and west of the site, and the planning history of the site (whereby permission was previously granted under ABP Ref. No. PL28.123759 for 3 No. three-storey front gabled conventional dwelling houses with a ridge height of c. 9.6m), it is my opinion that the overall design of the proposed development is acceptable and does not unduly impinge on the prevailing character of the wider area.

In relation to the impact of the proposal on the built heritage qualities of the area, it is my opinion that although the site in question is located within the Blackrock Road

Architectural Conservation Area, given the specifics of the site location and context (as outlined above), the proposed development can be satisfactorily assimilated into the area without adversely affecting the architectural conservation area. Similarly, whilst I would acknowledge that Menloe House is included in the National Inventory of Architectural Heritage and is also identified as being of regional importance by reason of its architectural and artistic special interest qualities, it should be noted that the house itself is not a protected structure (*N.B.* Only the stone entrances and gates at Menloe House are included in the Record of Protected Structures, Ref. No. PS522) and, therefore, in light of the planning history and site context, in addition to the intervening screening between the application site and Menloe House, I am satisfied that the visual impact on Menloe House arising as a result of the proposed development is acceptable and does not warrant a refusal of permission.

### 8.3. **Impact on Residential Amenity:**

Concerns have been raised in the grounds of appeal that the proposed development will have a detrimental impact on the residential amenity of the appellants' properties by reason of the proximity of the proposed construction to the eastern site boundary. In this respect specific reference has been made to the grant of permission previously issued on site under ABP Ref. No PL28.123759 which included a condition whereby the easternmost dwelling house in the then proposed development was to be omitted and the area thus freed from development to be incorporated into the garden space of the proposed house immediately to the west. It has been further asserted that the inclusion of the aforementioned condition '*in the interest of residential amenity*' has thus served to establish a precedent as regards the (easternmost) building line of any development on site relative to those properties to the immediate east along Menloe Gardens.

Having reviewed the available information, and following consideration of the extensive submissions on file with regard to the proposed site layout, at the outset I would advise the Board that the whilst the concept of residential amenity is typically associated with the preservation of privacy and the avoidance of excessive levels of overlooking and overshadowing, I would concur with the appellants' submission that a broader interpretation should be attached to this issue which would include factors such as the potential for a particular development to have an overbearing impact or an undue overwhelming influence on adjacent property. In this regard I would

acknowledge that the rationale for the inclusion by the Board of Condition No. 2 (which required the omission of the easternmost dwelling house) in its determination of ABP Ref. No. PL28.123759 *'in the interest of residential amenity'* is somewhat unclear and thus it may not be specifically attributable to the need to avoid any overlooking etc. of adjacent properties and may instead pertain to some other consideration. However, at this point, I would suggest that it is noteworthy that the aforementioned condition was not included for reasons of orderly development, such as a need to maintain a particular building line, and this would seem to undermine a key aspect of the grounds of appeal.

On balance, I am inclined to suggest that it is entirely appropriate in this instance to assess the subject proposal from first principles and in this regard I propose to review the wider impact, if any, of the proposed development on the residential amenity of neighbouring properties.

The initial proposal as submitted to the Planning Authority provided for a minimum separation distance of c.16m between the proposed dwelling house and the southern site boundary with the adjacent property to the immediate south being orientated perpendicular to the proposed development. In this respect it should be noted that the separation distance between the first floor windows within the southern elevation of the proposed dwelling house and the gable end of the adjacent property to the south (identified as No. 18 Berkley on the site layout plan) would be in excess of that previously approved under ABP Ref. No. PL28.123759. With regard to the neighbouring properties within Menloe Gardens to the east of the site, the initial proposal provided for a separation distance of only 2.4m between the eastern elevation of the proposed dwelling house and the site boundary which would be considerably less than the scheme approved under ABP Ref. No. PL28.123759. In addition, the proposal included for a high-level window serving a bedroom and a further window for an ensuite bathroom within the eastern elevation of the proposed dwelling house which would appear to have given rise to concerns as regards the potential for overlooking of neighbouring properties.

At this point I would advise the Board that the applicant would appear to have sought to address the concerns of local residents within Menloe Gardens by submitting amended proposals by way of unsolicited additional information to the Planning Authority on 30<sup>th</sup> January, 2017. These revisions include for the omission of the first

floor bedroom window from the eastern elevation of the proposed dwelling and the relocation of the house to a more central position within the site thereby increasing the separation distance to the eastern site boundary to 5.71m.

Having reviewed the amended proposals submitted by way of unsolicited additional information, in addition to the shadow impact analysis received by the Board in response to the submission of the Planning Authority on the grounds of appeal, in my opinion, the overall scale, design, positioning and orientation of the proposed development, with particular reference to the separation of same from adjacent dwelling houses and their associated rear garden areas, is sufficient to avoid any undue incidences of overlooking or overshadowing of neighbouring property given the site context in a built-up urban area. In addition, I would suggest that the increased separation distance from the eastern site boundary serves to adequately reduce any potential overbearing impact on adjacent properties within Menloe Gardens. Accordingly, it is my opinion that the amended proposals received by the Planning Authority as unsolicited additional information serve to satisfactorily preserve the wider residential amenity of neighbouring property and thus are deemed to be acceptable.

#### 8.4. **Traffic Implications:**

Having reviewed the available information, in the first instance I would advise the Board that the proposed access arrangement is comparable to that previously approved on site under PA Ref. No. 00/24087 / ABP Ref. No. PL28.123759 as it involves the provision of a shared entrance / service road onto the roadway serving the Berkley housing estate and thus the overall principle of the submitted proposal would appear to be acceptable. Furthermore, it should be noted that the subject proposal, when taken in conjunction with the development proposed on the adjacent site to the immediate west under PA Ref. No. 16.37204 / ABP Ref. No. PL28.248169, will result in an overall reduction in the number of dwelling houses proposed within the confines of the wider site area when compared to the scheme previously approved ABP Ref. No. PL28.123759 and thus the traffic impact arising will be lessened accordingly.

Therefore, having regard to the foregoing, with particular reference to the planning history of the subject site and its overall acceptability in principle for the development

of housing, it is my opinion that the subject proposal does not pose a risk to traffic / public safety and is acceptable in terms of its wider traffic impact.

8.5. **Appropriate Assessment:**

Having regard to the nature and scale of the proposed development, the availability of public services, the nature of the receiving environment, and the proximity of the lands in question to the nearest European site, it is my opinion that no appropriate assessment issues arise and that the proposed development would not be likely to have a significant effect, either individually or in combination with other plans or projects, on any Natura 2000 site.

8.6. **Other Issues:**

Procedural Issues:

With regard to the accuracy and adequacy of the submitted information, including the plans and particulars which accompanied the initial planning application, in my opinion, there is adequate information on file to permit a balanced and reasoned assessment of the proposed development which in turn supports the decision of the Planning Authority to grant permission.

In relation to the assertion that an incorrect address has been provided in the site description as regards the location of the proposed entrance arrangement onto the Berkley housing estate, I would suggest that the Board is not in a position to correct any procedural irregularity made by the Planning Authority, however, it is notable that any such error would not appear to have prejudiced any third party objector's right of appeal.

Impact on the Eastern Boundary Wall:

In relation to the appellants' concerns as regards the potential impact of the proposed works on the existing intervening wall along the eastern site boundary, I note that reference has been made to this wall as being within the ownership of the applicants and thus it would appear that they would be entitled to undertake any works to same. Notwithstanding the foregoing, in the event of a dispute as regards the site boundary I would draw the Board's attention to Section 34(13) of the



Planning and Development Act, 2000, as amended, which states that '*A person shall not be entitled solely by reason of a permission under this section to carry out any development*'.

In reference to the potential for any damage to occur to the appellants' properties consequent on the proposed construction works, I am inclined to suggest that this would amount to a civil matter for resolution between the parties concerned.

## **9.0 Recommendation**

Having regard to the foregoing, I recommend that the decision of the Planning Authority be upheld in this instance and that permission be granted for the proposed development for the reasons and considerations and subject to the conditions set out below.

## **10.0 Reasons and Considerations**

Having regard to the land use zoning of the site in the current Development Plan for the area, to the infill nature of the site, to the design and scale of the proposed development, and to the nature and pattern of development in the vicinity, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities of the area or of property in the vicinity, would represent an appropriate residential density and otherwise comply with the provisions of the Development Plan, and would be acceptable in terms of pedestrian and traffic safety. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## **11.0 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 30<sup>th</sup> day of January 2017, 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. 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.

3. All service cables associated with the proposed development (such as electrical, telecommunications and public lighting) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development.

**Reason:** In the interests of visual and residential amenity.

4. Details of the materials, colours and textures of all the external finishes to the proposed development shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Roof colour shall be blue-black, black, or dark grey in colour only (including ridge tiles).

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

5. All bathroom, WC and en-suite windows shall be fitted and maintained with permanently obscured glazing.

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

6. The entrance design and internal road network serving the proposed development, including any turning bays, junctions, footpaths and kerbs, shall comply with the detailed standards of the planning authority for such road

works. The footpath and kerb shall be dished at the location of the proposed entrance in accordance with the requirements of the planning authority.

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

7. Prior to commencement of development, the developer shall submit to, and agree in writing with, the planning authority, complete details of all proposed boundary treatment within and bounding the proposed development site.

**Reason:** In the interests of visual and residential amenity.

8. The site shall be landscaped in accordance with a comprehensive scheme of landscaping, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. All planting shall be adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

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

9. Proposals for an estate name, house numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the estate sign and house number shall be provided in accordance with the agreed scheme. The proposed name shall be based on local historical or topographical features, or other alternatives acceptable to the planning authority. No advertisements/marketing signage relating to the name of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name.

**Reason:** In the interest of urban legibility, and to ensure the use of locally appropriate place names for new residential developments.

10. 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 or public holidays. Deviation from these times shall 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.

11. 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 hours of working, noise management measures and off-site disposal of construction waste.

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

12. 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.

13. 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.

14. The developer shall pay to the planning authority a financial contribution in respect of the Cork Suburban Rail Project in accordance with the terms of the Supplementary Development Contribution Scheme made by the planning authority under section 49 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

**Reason:** It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Supplementary Development Contribution Scheme made under section 49 of the Act be applied to the permission.

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Robert Speer  
Planning Inspector

22<sup>nd</sup> June, 2017