



An
Bord
Pleanála

Inspector's Report PL28.248169

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.

16/37204

Applicant(s)

Clodagh O'Driscoll

Type of Application

Permission

Planning Authority Decision

Grant subject to conditions

Type of Appeal

Third Party v. Decision

Appellant(s)

Geraldine & Mark Higgins

Observer(s)

None.

Date of Site Inspection

31st May, 2017.

Inspector

Robert Speer

1.0 Introduction

The Board is advised to determine this appeal in conjunction with ABP Ref. No. PL28.248168 on the basis that they are located on immediately contiguous sites

2.0 Site Location and Description

2.1. 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 0.116 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 125.5m² and a ridge height of 8.13m. The overall design is based on a principle rectangular plan (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 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 east (PA Ref. No. 16/37205 / ABP Ref. No. PL28.248168) which will extend northwards from a redeveloped entrance onto the Berkley housing estate. Water supply and sewerage services are available from the public mains.

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 17th 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. 7 - 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. 16/37205.

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 east (PA Ref. No. 16/37205) 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. 19m from the southern boundary, will not give rise to any overlooking or overshadowing of adjoining properties, and 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 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 were previously established under ABP Ref. No. PL28.123759.

5.0 Planning History

On Site:

PA Ref. No. 00/24087 / ABP Ref. No. PL28.123759. Was granted on appeal on 27th 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. 16/36780 / ABP Ref. No. PL28.246637. Was granted on appeal on 29th 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.

PA Ref. No. 1637205 / ABP Ref. No. PL28.248168. On 17th 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. 0529739. Was granted on 19th 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 3rd 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.

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 as regards the decision of the Planning Authority to grant permission for PA Ref. Nos. 16/35204 & 1637205 without seeking a more suitable site layout for both developments:

- 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 boundary with Menloe Gardens 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 issued in respect of PA Ref. No. 16/37205 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 16th 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 30th 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 PA Ref. No. 16/37205 requires the development to be carried out in accordance with the plans and particulars submitted with the application on 16th 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 16th December, 2016 to 3m (a difference of only 600mm).

The planner’s report does not directly reference the unsolicited further information submitted on 30th January, 2017 in regard to PA Ref. No. 16/37205 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 for PA Ref. No. 16/37205 is based on the modified drawings of 30th 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 leaving a very narrow gap between the two proposed dwellings.

- There is a lack of clarity as regards the interpretation of Condition No 3 of the notification of the decision to grant permission for PA Ref. No. 16/37205 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. This would

require a change in the site layouts and / or house designs for PA Ref. Nos. 16/37204 & 16/37205.

- It is considered that a review of the precedent set by ABP Ref. No. PL28.123759 is essential to any consideration of the appropriate separation distances between the 2 No. proposed dwelling houses and also between PA Ref. No. 16/37205 and those residences along Menloe Gardens. 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 2 No. concurrent planning applications (PA Ref. Nos. 16/37204 & 16/37205) precludes any achievement of the separation distance from the boundary with Menloe Gardens as previously imposed by ABP Ref. No. PL28.123759. The building line established by the Board can only be achieved by changing the proposed house types or reducing the width of PA Ref. No. 16/37204. 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 for both PA Ref. Nos. 16/37204 & 16/37205 to submit revised proposals detailing how the eastern building line previously specified by the Board in ABP Ref. No. PL28.123759 will be achieved.
- A proper reassessment of the potential impacts and the alternative layouts and design will require a more detailed topographic survey which includes the adjoining properties in Menloe Gardens.

7.2. Applicant's Response

- 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.

- The balance of the matters raised in the grounds of appeal appear to relate to ABP Ref. No. PL28.248168 and as such are not considered to be relevant to the subject application which relates to a site in separate ownership.

7.3. Planning Authority's Response

No further comments.

7.4. Observations

None.

7.5. Further Responses

None.

8.0 Assessment

8.1. 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

These are assessed as follows:

8.2. **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 'Z04: 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. 16.37205 / ABP Ref. No. PL28.248168) 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.

8.3. **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.

8.4. **Impact on Residential Amenity:**

Having reviewed the available information, and in light of the site context within a built-up urban area, 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, will not give rise to any significant detrimental impact on the residential amenity of neighbouring property by way of overlooking or overshadowing etc.

8.5. **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 east under PA Ref. No. 16.37205 / ABP Ref. No. PL28.248168, 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.

8.6. **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.

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, 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.

Robert Speer
Planning Inspector

22nd June, 2017