



An
Bord
Pleanála

Inspector's Report PL04.248234

Development	89 houses and ancillary site development works
Location	Knocknahorgan, Sallybrook, Glanmire, Co Cork
Planning Authority	Cork County Council
Planning Authority Reg. Ref.	16/5554
Applicant(s)	Bluescape Ltd
Type of Application	Permission
Planning Authority Decision	Grant
Type of Appeal	First & Third Party
Appellant(s)	<ol style="list-style-type: none">1) Bluescape Ltd (First Party)2) Residents Group Knocknahorgan Wood Road3) Aidan Fitzsimons4) Stephen & Clare Green5) Ray & Angela O'Callaghan6) Knocknahorgan Lane Residents
Observer(s)	<ol style="list-style-type: none">1) James Landers & Others

- 2) David Lohan
- 3) Meadowbrook Residents
- 4) Aidan Fitzsimons
- 5) Fiona Landers

Date of Site Inspection

25th June 2017

Inspector

Mary Crowley

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1.0 Site Location and Description

- 1.1. The appeal site with a stated area of 8.11 ha is located to the north of Glanmire, circa 8km east of Cork City on the western side of the River Glashboy Valley. The appeal site is located on an elevated site within the town land of Knocknahorgan in Sallybrook. The area is generally characterised as agricultural with low to medium density residential development.
- 1.2. Access to the appeal site is provided from the local roads bounding the eastern and western boundaries. The roadway to the west benefits from direct access to the R639. There is also a private laneway which runs through the site in a north south direction and provides access to 2 no detached houses. This laneway bisects the land into two distinct areas; to the east the lands is relatively steep and is densely vegetated, while to the west the slope is much more gradual and is under pastoral agricultural use and is the primary area for the proposed development.
- 1.3. A set of photographs of the site and its environs taken during the course of my site inspections is attached. I would also refer the Board to the photos available to view throughout the appeal file including the Visual Assessment.

2.0 Proposed Development

- 2.1. The application submitted to Cork County Council on 23rd June 2016 was for the construction of 89 no. dwelling houses and all ancillary site development works. The proposed residential scheme comprised 32 no. three storey dwellings and 57 no. two storey dwellings with access to be provided via a new vehicular entrance onto the adjacent public road to the east. The application was accompanied by the following:
 - Planning & Design Statement
 - Construction Management Plan
 - Traffic & Transport Assessment
 - Infrastructure Report
 - Ecological Impact Statement
 - Bat Fauna Survey
 - Landscape Plan

- Tree Survey Report
- Landscape Visual Assessment

2.2. In response to a request for **further information** and in accordance with the planning authority's request the density of the proposed development was reduced from 89 to 77 residential units. Dwellings were omitted from the layout where it was considered that it would provide the most visual benefit and in this regard 5 no dwellings were omitted from the front row of houses to provide for a visual break and to allow for the permeability of open spaces and planting throughout the revised scheme. The proposed alterations to the layout resulted in the loss of 12 no units and the revised scheme of 77 no units represents a density of 10 units per hectare, based on the overall site area of 8.1 ha or 18 units per hectare based on the developable area of 4.3ha. the further information was submitted on 3rd February 2017.

2.3. The submission was accompanied by the following:

- Tree Survey
- Tree Protection Strategy
- AECOM report on traffic, roads and drainage

3.0 Planning Authority Decision

3.1. Decision

3.1.1. Cork County Council granted planning permission for 76 no houses subject to 73 conditions. Conditions of note are summarised as follows:

- **Condition No 3** – Obscured glazed window on side elevation serving a bedroom on House type No 3 shall be omitted
- **Condition No 4** – Dwelling House No 1 shall be omitted and an application for a crèche facility shall be lodged
- **Condition No 5** – Revised site layout providing a pedestrian link through the estate to the local road
- **Condition No 6** – Revised landscape plan together with phasing and maintenance / management

- **Condition No 7** – Bond in them amount of €38,000 for landscaping
- **Condition No 24** – Bond for completion
- **Condition No 26** – Developer shall be responsible for maintenance of the state until taken in charge
- **Condition No 43** – New surface water to be laid downstream of this development prior to occupations of the development
- **Condition No 47** – Retained height of the proposed reinforced concrete wall retaining structure along the access road shall ebb reduced
- **Condition No 48** – Guard rail to be provided along the top of the retaining wall
- **Condition No 70** – Part V Social Housing provision
- **Condition No 72** – €232.000.00 Special Development Contribution not covered by Councils General Contribution Scheme
- **Condition No 73** - €180,412.74 Section 48 Development Contribution

3.2. Planning Authority Reports

3.2.1. **Planning Reports** – The Case Planner in their first report requested 8 items further information. The A/SEP in their follow-on report requested 33 items of further information. It would appear from the planning file that the Case Planners Report was written prior to receipt of internal reports from the Area engineer, engineering, estates and Heritage. The subsequent A/SEP report appears to have had the benefit of these reports in making their recommendation. Cork County Council requested the following further information (32 items) as summarised:

- Depth of boundary treatment and proposed boundary treatment, retaining structures
- Scale, density and visual impact of the development
- Revised north-south sections for neighbouring Glenrichmond Properties
- House type 3 to be amended
- Open space provision
- Vehicular openings along northern and western boundaries

- Potential structural impacts on the existing laneway running through the site
- Crèche provision
- Part V
- Review of junction at Brook Inn, Sightlines, Proposed Access, New connection / link road, Revised Road layout
- Management Plan and Environmental Management Plan
- Water Sewer Infrastructure and drainage

3.2.2. The Case Planner having considered the further information received recommended that permission be granted subject to 75 conditions. The subsequent report of the A/SP recommended that permission be granted subject to 73 conditions. The notification of decision to grant permission issued by cork City council reflect this recommendation.

3.2.3. **Other Technical Reports**

- **Traffic & Transport** – No objection subject to conditions relating to providing a lighted public footpath from the entrance to the housing estate to the R610 at Sallybrook which would give direct access to the nearby bus stop. Further stated that permission should not be granted for the proposed development without a proposal to upgrade the junction between the local road serving the development and the R610 adjacent to Brook Inn to an appropriate standard as is it severely substandard and gives rise to excessive traffic speeds as well as inappropriate turning movements. Consider that the best way of dealing with these issues is to apply a special development contribution to cover the works required.
- **Heritage Unit** – Satisfied that the proposed development will not have significant impact on Cork Harbour SPA or on the Great Island SAC or any annexed species. No requirements for AA.
- **Engineers Report** – No objection subject to conditions set out in their report
- **Area Engineer** - No objection subject to conditions set out in their report
- **Estates** - No objection subject to conditions set out in their report

- **Public Lighting** – No objection on environmental grounds subject to conditions set out in their report. Noted that information submitted on public lighting is minimal and not acceptable and that no design information was submitted.
- **Housing** – raised concern regarding the layout and that the Part V units are placed together at the end of a cul de sac, which is undesirable. Requested that this element is redesigned dispersing the Part V units throughout the development rather than clustering them in a single corner of the development.

3.3. **Prescribed Bodies**

- 3.3.1. **Inland Fisheries** has no stated objection subject to Irish Water providing assurance that there is sufficient capacity in the public sewer so that it does not overload either hydraulically or organically the existing treatment facilities or result in pollution matter entering waters.

3.4. **Third Party Observations**

- 3.4.1. There are 39 observations recorded on the planning file from (1) Ann & William O’Keefe, (2) Margaret Sheeran, (3) Glanmire GAA Football Club, (4) Meadowbrook Residents, (5) Patrick & Irene Conneely, (6) Paula Kennedy, (7) A.M. Considine, (8) Jones Landers, (9) David & Valerie O’Flynn, (10) Alex & Una Webster, (11) R. James Kearney, (12) Noel Riordan, (13) Joe & Teresa Burke, (14) Sharon & Michael Colohan, (15) Owen Hodder, (16) Ray & Angela O’Callaghan, (17) Tim & Liz O’Driscoll, (18) David Barry, (19) Aidan Fitzsimons & Jenny Patterson, (20) Con & Eileen Allen, (21) Sallybrook Tidy Towns, (22) Paul & Katerina O’Leary, (23) John McDonnell, (24) Philip & Maria Gillivan, (25) Knocknahorgan Lane Residents, (26) Steven & Claire Green, (27) Glenrichmond Residents Association, (28) Michael & Finola Crowley, (29) Rose & Jim O’Connor, (30) Robert Fergey, (31) Angela Bennett & Billy Wright, (32) Kathleen Bennett, (33) Pat & Phil Sheehan, (34) Laurence Owens, (35) Coar Dinan, (36) David Lohan, (37) John & Darina Gately, (38) Patrick & Angela O’Sullivan and (39) Paul & Kay Howley.

- 3.4.2. The issues as summarised in the case planners report are as follows:

- Current access road which joins the R639 at the brook inn barely copes with traffic
- generated from the Glenrichmond housing estate and other houses along the road
- Proposed access road is considered too close to third party dwelling
- Site is known to have a number of springs – concerns relating to surface water impacts on third party properties.
- Possible issue with subsidence to third party earthen bank or potentially divert spring into third party property.
- Concerns over flooding of the local area with increased surface water runoff from the site.
- Premature until Glashaboy Flood relief scheme is in place.
- Outdoor gym equipment and other proposed amenity features have the potential to attract anti-social behaviour.
- Proposed entrance location will have negative impacts on residents on the Knocknahorgan Wood Road.
- Proposed pedestrian link to Glenrichmond would lead to noise and disturbance – development should remain separate.
- Density and height of the proposed units is an issue – overdevelopment of the site will have an adverse impact on the Glenrichmond estate and visual amenities of the valley.
- Local roads in the area are too narrow to deal with anticipated construction traffic.
- Lack of footpath along the existing local road makes it hazardous for pedestrians.
- Casual access into Glenrichmond from the site – potential anti social behaviour problems. A wall or some permanent boundary should be put in place to prevent this.
- Any estate name given should be distinct from Glenrichmond
- Appropriate street lighting should be provided
- Proposed paladin/palisade fences do not fit with the rural environment

- Structural breaks are shown in the fence line to the west which may allow access onto the Knocknahorgan lane leading to anti-social behaviour. Set down area on same boundary may also lead to anti-social behaviour providing a meeting point. All proposed breaks should be removed.
- Proposed development contradicts the zoning objective.
- Design and mix of houses is out of character with the rural setting.
- Traffic plans submitted are understated and do not fully take into account the number of vehicles exiting from the development. Accuracy of the submitted data. Submitted Traffic Assessment does not take into account the already permitted (and under construction Glashaboy Woods and Springmount Woods developments.
- Visual impact assessment gives no assessment of impact on Glenrichmond residents and underplays overall impact.
- Proposed 7 a.m. construction start time and parking arrangements contained in draft CMP are concerning.
- Proposed planting schedule does not accord with parameters set out in GI 6-1 in CDP 2014
- 41 houses in Glenrichmond – this development will more than double that density at a higher elevation.
- Current Sallybrook bus service is hourly not half hourly as suggested.
- Future roads access is provided for to the north of the development. In this regard the submitted details fail to comply with the Planning and Development regulations as the extent of lands adjoining/abutting the site in the applicants ownership have not been outlined in blue.
- Details in relation to the works required to the existing right of way through the development are not provided in the Traffic and Transport Assessment Report. Third party is concerned that the significant level change will compromise the use of the right of way
- Retaining structures will be required.
- The submitted CMP fails to have any regard for the third parties utilizing the right of way.

- Amenities proposed in the east of the site are not achievable due to the steep gradients.
- Increased risk of burglary from proposed access points.
- Concerns in relation to possible phase 2 of development.
- Developer has not engaged with local residents in a meaningful way
- Potential noise disturbance could be a major issue
- Visual impact from Knocknahorgan Lane not assessed.
- Badgers very active on site – proposed works would result in badgers having to vacate the site.
- Area of land where access road is to be located is a valuable wildlife habitat.
- Not clear if existing right of way through site will form short cut for new residents. An adjacent third party would object to this.
- Proposed development conflicts with landscape policy objectives contained in 2014 CDP
- Part v housing layout not in accordance with national guidelines.
- Development needs to have regard for flood relief scheme
- Houses should have more rural design
- Proposed green areas are unusable
- Overall density should be closer to the 12 dwellings per hectare rather than the upper limit of 25 given site constraints and edge of settlement location

4.0 **Planning History**

4.1. There is no evidence of any previous planning appeal on this site.

5.0 **Policy Context**

5.1. **Development Plan**

5.1.1. The operative plan for the area is the **Cork County Development Plan 2014 – 2020** where Glanmire is identified as a Metropolitan Town. Glanmire is also within the

County Metropolitan Cork Strategic Planning Area which is noted as the main engine of population and employment growth for the region.

- 5.1.2. Glanmire is designated as a Main Town in the **Blarney Electoral Area Local Area Plan 2011** (January 2015 Edition). The appeal site is zoned R-01 where the objective states as follows:

Medium B density residential development, with long term strategic planting on the northern and western edges of the site to act as a definite limit to any further development in this area. Development of these lands should include landscaping and protection of the more vulnerable slopes.

- 5.1.3. The site also bounds the **Metropolitan Green Belt** to the west and north, where it is an objective to preserve the largely undeveloped nature of these greenbelt lands and to reserve lands generally for agriculture, open space or recreation use.

5.2. Natural Heritage Designations

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

6.0 The Appeal

6.1. Grounds of Appeal

- 6.1.1. There are 5 no third party appeals recorded on the appeal file from (1) Residents Group Knocknahargon Wood Road, (2) Aidan Fitzsimons, (3) Stephen & Clare Green, (4) Ray & Angela O'Callaghan and (5) Knocknahargon Lane Residents. The issues raised can be summarised under the following general headings:
- 6.1.2. **Access & Traffic Safety** – The Knocknahargon Wood Road (L-96391-0) currently a cul de sac, was never intended to cater for the proposed volume of traffic associated with the development proposed. The road is a single carriageway; cars currently have to pull into private driveways to allow traffic to pass. In parts, the road is only 3m wide. Existing boundaries preclude the widening of the road. The new access road is too near to an existing private dwelling house on the northern side. The proposed development will result in a traffic hazard. The proposed development will

result in disruption and loss of access to the authorised and permitted houses to the north.

- 6.1.3. **Right of Way** – No proper regard has been had to Stephen & Clare Greens entitlement in respect of the right of way which provides exit and egress to their property from the public roadway. Copies of land folios attached to their submission.
- 6.1.4. **Density of Housing** – The Blarney Electoral Area Local Area Plan 2nd Edition 2015 (LAP) outlined that development on lands zoned R-01 should be “end of development”. It is submitted here that the proposed development is more akin to a “start” of development area as opposed to “end of development” as envisaged in the LAP. The type and density should be reduced in sympathy with the existing neighbouring development.
- 6.1.5. **Flooding / Drainage** – The steepness of the site combined with the extent of hard landscaping presents a major flood risk especially for residents of the Knocknahargon Wood Road. Insufficient measures have been taken to mitigate against flood risk. No provision has been made to connect into existing drains on the lower eastern side.
- 6.1.6. **Condition No 53 (Southern Boundary)** – Clarity required that a 2-metre-high capped blockwork continuous wall will be constructed along the entire southern boundary with Glenrichmond Estate ensuring there is no access of any kind between the two estates. Requested that the wall is constructed in advance of any development. Certainty in wording of condition also requested to ensure “discretion” is removed.
- 6.1.7. **Western Boundary** – There should be no access pedestrian of otherwise onto Knocknahargon Lane along the western boundary. This is a very narrow lane and following the Council decision a 2 m blockwork wall is to be constructed along this lane. It should be condition that this proposed boundary wall is a continuous wall along the length with no gaps, omissions or opening in the wall which would endanger pedestrian access. Further requested that this wall be conditioned to be at least 1.5m away from the bottom of the closest point of the hedgerow in order to avoid any damage to the hedgerow.
- 6.1.8. **Policy** – The proposed development conflicts with the County Development Plan, Local area Plan and DoEHLG Guidance requirements.

- 6.1.9. **Visual Impact** – Requested that any view from Glenrichmond Estate is considered. The proposed house type T4 along the southern boundary of the development have a ridge level which is c 5 metres, higher than the level that Cork County council imposed on a permitted dwelling at Clontemple, Knocknahargon in 2006.
- 6.1.10. **Residential Amenities** – The proposed development will result in overlooking and loss of enjoyment of existing residential properties.
- 6.1.11. **Property Values** – The development will result in a diminution in the value of adjoining residential properties in the area.
- 6.1.12. **Assessment & Decision** – The applicants have not adequately addressed the issues raised during the planning stage and particularly at the further information stage and therefore the information submitted is inadequate to allow assessment of the proposed development. Over 40% of the conditions attached require the submission of very significant further information to be examined, assessed and to be agreed further with the local authority before development can commence. This demonstrates a clear absence of any adequate assessment of the application. The approach adopted by Cork County Council to impose a series of such conditions presents all interested parties such as third party objectors any input, whatsoever into the process.

6.2. **First Party Appeal**

- 6.2.1. The first party has appealed against Conditions No 4, 5, 43 and 72. The submission has been prepared and submitted by HWP Planning and may be summarised as follows:
- 6.2.2. **Condition No 4** omitted Dwelling No 1 on the understanding that this site could accommodate a future crèche, which they determined may be required to serve the future childcare needs of the area. This condition reduces the permitted development to 76 no dwellings in total. As the Childcare Assessment submitted with the application highlighted the availability of adequate childcare spaces in Glanmire, a crèche at the northern edge of the settlement would be unattractive to the wider population and given the challenging topography of the site the applicants consider that a crèche is not required and will not be viable.

- 6.2.3. **Condition No 5** requires the provision of a pedestrian link, with lighting, through the estate from the houses to the local road as an alternative to the footpath along the access road. The condition specifies that this link should have regard to Technical Guidance M in relation to stepped access / hand railing requirements and have regard to public security and safety in its design. Given the topography of the site it is not viable to provide for a link which complies with Technical Guidance M.
- 6.2.4. **Condition No 43** requires the applicants to lay a new surface water sewer and river outfall downstream of the proposed development on lands which is outside the site boundary and over which they have no control. Given this the applicant will be unable to comply with the condition, which will present compliance and viability issues and in any case the condition is contrary to Section 34(4)(a) of the Planning and Development Acts.
- 6.2.5. **Condition No 72** requires the payment of €232,000 as a special development contrition in respect of works proposed to be carried out, for the provision of an upgrade of the junction of the local road with R610 at the Brook Inn and provide a footpath and public lighting on the public road. The applicants have no objection to paying an appropriate contribution to the exceptional costs of public infrastructure, which will benefit the proposed development. From the reports on file it appears that the special development contribution is to fund the entire cost of the works. It is considered that this is contrary to the legislative requirements of Section 48(2)(c) of the Planning and Development Act and does not comply with the Development Contributions Guidelines for Planning Authorities 2013.

6.3. Applicant Response

- 6.3.1. The first party response to the appeal has been prepared and submitted by HW Planning and may be summarised as follows:
- Applicant has met with many of the appellants on more than one occasion to discuss issues of concern. It is considered that issues highlighted in the appeal were addressed during the planning application process.
 - The applicant is confident that they have full legal rights to carry out the development as proposed and permitted by Cork County Council.

- Many of the conditions relate to details which have been submitted to and accessed by the Planning Authority during the application process or relate to construction details to be agreed prior to the commencement of development. The number of conditions and precedent conditions depends on the practices and procedures of a Planning Authority and in this regard the Board will note that it is common for Cork County Council to apply in excess of 70 conditions to larger developments such as this, whereas a grant of permission from the Board for the same development is likely to contain fewer than 30.
- Contrary to the assertions of the appellants the applicants have demonstrated through the submitted TA that the existing road network has adequate capacity to cater for the proposed development, and will in fact through appropriate special development contributions the proposed development result in an improvement in the local network in terms of junction upgrades and footpath provision.
- The proposed development site has the benefit of Zoning Objective R-01 of the Blarney Electoral Area Local Area Plan Second Edition 2015. The appropriate design to the site's challenges and the zoning objective were carefully considered by the applicants' architects and landscape architects and has been the subject of detailed discussions with the Planning Authority in advance of and during the application process. While the site is challenging, it is serviced and has been zoned for residential development for some time, the onus is on the applicants and the Planning Authority to ensure that the densities achieved are sustainable and in accordance with the zoning objective for the site.
- The Planning Authority are satisfied that the proposed development does not pose a risk to adjacent properties by virtue of flooding with the conditions of the permission will ensure the same.
- Mr. and Mr. O'Callaghan and Mr. and Mrs. Green can continue to use the long established laneway as they currently do and the proposed development will have no impact on the same.
- The applicant has demonstrated throughout the planning application process that the proposed development will not lead to a loss of access to properties to the north of the site.

- As highlighted in the response to the request for Further Information potential future vehicular openings have been provided for along the northern and western boundaries in accordance with the applicants' contractual obligations. These potential links are indicative only and if required to accommodate further development will be the subject of future planning applications.
- In terms of boundary treatments and again as highlighted in the response to the Further Information request the applicants have no objection to walls replacing fencing within the development, but consider that the proposed paladin fence is a more appropriate and sensitive boundary treatment along the site boundaries.

6.4. Planning Authority Response

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

6.5. Observations

6.5.1. There are five observations recorded on the appeal file from (1) James Landers & Others, (2) David Lohan, (3) Meadowbrook Residents, (4) Aidan Fitzsimons and (5) Fiona Landers. Generally, the submissions appear to support the views outlined in the appeal submissions. The main issues raised in the observations may be summarised as follows:

- Traffic Safety and access. The unsuitability of L-96391-1 Knocknahargon Wood Road, a cul de sac for the scale of development proposed. No access through Glenrichmond. Impact at the junction of the L-96391-0 and the R639 as it is overburdened and unsafe at present
- Flooding & drainage. The Development falls within the Glashabay Sub Catchment Area of the Draft Flood Risk Management Plan. Existing drainage infrastructure should be protected
- Screening & privacy, anti-social behaviour, Visual amenity & height
- Pedestrian access
- Boundary wall & timing of delivery

- Right of way
- Conditions exclude residents from the consultative process
- No engagement by the developer with the local community in relation to designing the development in such a manner that addresses the concerns raised
- Condition No 1 – no necessity for a crèche in the area
- The developer has submitted plans for the construction of a private dwelling house on site No 1. Preference that this did not happen or relocated.
- Future access points to the north west and south west of the proposed development due to “contractual obligations” is unacceptable as it would open up vast tracks of land to the possibility of development in the future.

6.6. Further Responses

6.6.1. Many of the issues raised are similar to those raised in the appeal(s). Additional comments may be summarised as follows:

6.6.2. Steven & Claire Greene

- Valuation from Cohalon Downing Estate Agents & Valuers which inter alia shows a substantial diminution in value which is directly linked to the proposed development (reduction from €425,000 to €340,000)
- The matter of “right of way” is not dealt with adequately in the developer’s submissions in response to the third party appeals.

6.6.3. Ray & Angela O’Callaghan

- Condition No 5 – the roadway as indicated and the pedestrian link as suggested, to pass along the margin of the roadway, will completely intercept and sever the established route of the right of way. The legal and practical entitlement to enjoy that right of way would be denied by the layout and pattern indicated.
- Financial Contributions – Submitted that the question of profit to be enjoyed by the developers is not a matter which should influence the planning process and the decisions and conditions arising.

7.0 Assessment

- 7.1. The application submitted to Cork County Council on 23rd June 2016 was for the construction of 89 no. dwelling houses and all ancillary site development works. The proposed residential scheme comprised 32 no. three storey dwellings and 57 no. two storey dwellings with access to be provided via a new vehicular entrance onto the adjacent public road to the east. Cork County Council issued a notification of decision to grant planning permission for 76 no houses subject to 73 conditions.
- 7.2. The application was submitted to Cork County Council on 23rd June 2016. The applicant submitted further information on 3rd February 2017. Accordingly, this assessment is based on the plans and details submitted on 23rd June 2016, as amended on 3rd February 2017.
- 7.3. With reference to concerns raised regarding the assessment of the planning scheme and the use of a sub-condition and a further sub-sub-condition of same I would point out for the purpose of clarity that the current development before the Board is considered “de novo”. That is to say that the Board considers the proposal having regard to the same planning matters to which a planning authority is required to have regard when making a decision on a planning application in the first instance and this includes consideration of all submissions and inter departmental reports on file together with the relevant development plan and statutory guidelines, any revised details accompanying appeal submissions and any relevant planning history relating to the application.
- 7.4. I note the lengthy concerns set out in the appeal submissions regarding the right of way and legal interest together with the applicant’s view that they have full legal rights to carry out the development proposed. I also note that the applicants *are not proposing alterations to the existing laneway* and that residents *can continue to use the long established laneway as they currently do*. Notwithstanding this I would draw attention to Section 34(13) of the Planning Act that states, that a person is not be entitled solely by reason of a permission to carry out any development. Therefore, should planning permission be granted and should the observers or any other party consider that the planning permission granted by the Board cannot be implemented because of landownership or title issue, then Section 34 (13) of the Planning and Development Act 2000 is relevant.

7.5. Having regard to the information presented by the parties to the appeal and in the course of the planning application and to my site inspection of the appeal site, I consider the key planning issues relating to the assessment of the appeal can be addressed under the following general headings:

- Principle / Policy Considerations
- Site Access & Traffic Impact
- Screening for Appropriate Assessment
- Further Development
- Property Valuation
- Conditions

8.0 Principle / Policy Considerations

8.1. The proposed site is 8.11 ha in area and is located within the development boundary of Glanmire. It is afforded the R-01 zoning objective in the Blarney Electoral Area LAP 2011 (January 2015 Edition), which provides for Medium B density residential development. As pointed out by the case planner the appeal site is located at the far north of the development boundary in what could be viewed as a transitional site between the urban development in Glanmire and the greenbelt lands to the immediate north.

8.2. The planning application originally proposed the construction of 89 no two storey dwellings and all ancillary car parking, landscaping and site development works. The mix of dwellings consisted of 25 no detached dwellings, 56 no semi-detached dwellings and 8 no terraced houses in a range of 3 and 4 bed typologies. Access to the proposed development is to be provided via the existing local road which bounds the site to the east. Due to the challenging topography of the site, only 4.3ha of the overall site area is deemed to be developable. The remaining 3.81ha of undevelopable land to the east of the site will provide access to the adjacent public road and will be heavily landscaped passive open space.

8.3. In response to a request for further information and in accordance with the planning authority's request the density of the proposed development has been reduced from 89 to 77 residential units. Dwellings were omitted from the layout where it was

considered that it would provide the most visual benefit and in this regard 5 no dwellings were omitted from the front row of houses to provide for a visual break and to allow for the permeability of open spaces and planting throughout the revised scheme. The proposed alterations to the layout resulted in the loss of 12 no units and the revised scheme of 77 no units represents a density of 10 units per hectare, based on the overall site area of 8.1 ha or 18 units per hectare based on the developable area of 4.3ha.

- 8.4. Objective R-01 of the LAP requires any proposal for planning permission at this location to incorporate planting along the norther and western slopes as well as the protection and landscaping of vulnerable slopes. It is noted that the scheme incorporates a planting belt along the northern and western boundaries. Further the development is concentrated to the west of the site which is topographically less challenging, therefore reducing the need for cut and fill. The sloped area of to the east is void of development with the exception of the access road. It is also noted that a significant amount of planting and landscaping is proposed in the already heavily planted eastern section of the site.
- 8.5. I would add that having regard to the layout and design of the proposed scheme as amended, I am satisfied that the development in its architectural treatment, orientation and proximity to adjoining properties strikes a reasonable balance between the protection of the amenities and privacy of the adjoining dwellings in terms of overlooking and overshadowing with the requirement to provide residential units on this zoned serviced site. With regards to the provision of private and public open space within the scheme I am satisfied that the proposed development makes adequate provision of public and private amenity space to serve the proposed development. Further the density proposed represents an efficient and sustainable use of these serviced zoned lands particularly having regard to the topographical constraints of the site.
- 8.6. Overall I am satisfied that the proposed scheme as amended strikes a reasonable and appropriate balance between meeting the density requirements necessary to achieve an effective and sustainable use of zoned lands, addressing the sites topographical constraints and complimenting the residential character of the surrounding area. Having regard to the zoning objectives for the site I consider the principle of the proposed development to be acceptable subject to the acceptance or

otherwise of site specifics / other policies within the development plan and government guidance.

9.0 Site Access & Traffic Impact

- 9.1. Concern is raised that the existing road network does not have capacity to cater for the proposed development. A Transport Assessment was prepared by AECOM and submitted as part of the planning application. The Transport Assessment (TA) included analysis of the existing Brook Inn priority junction, and the impact of additional vehicular trips upon the operation of the existing junction. The TA assessed the impact of the proposed development in an opening year scenario (2018) and future years (2023) and (2033). Growth rates were applied to the base traffic flows including 4% growth from 2016 to 2018, 12% total growth from 2015 to 2022, and 34% growth from 2015-2032. Section 5.8 of AECOM TA presents the results of the junction modelling analysis, which identifies that the junction will operate significantly within capacity in all scenarios with a maximum RFC value of 0.15, in the 2033 scenario for right-turning vehicles from the R639 to the Brook Inn side of the junction. Queue length outputs in all scenarios are recorded as zero, meaning that no queue would build in any given 15-minute modelled period, although in practice turning vehicles may still be required to wait momentarily for gaps in passing traffic. The TA indicates that the existing Brook Inn junction has adequate capacity to cater for additional vehicular trips generated by the proposed development.
- 9.2. The TA demonstrates that the existing road network has adequate capacity to cater for the proposed development and through appropriate special development contributions (discussed below) the proposed development will result in an improvement in the local network in terms of junction upgrades and footpath provision.
- 9.3. Given the location of the appeal site together with the layout of the proposed scheme I am satisfied that the vehicular movements generated by the scheme would not have a significant material impact on the current capacity of the road network in the vicinity of the site or conflict with traffic or pedestrian movements in the immediate

area. Overall consider the proposal to be acceptable and I am satisfied that the proposed development will not result in the creation of a traffic hazard

10.0 Screening for Appropriate Assessment

10.1. Having regard to the nature and scale of the proposed development, the nature of the receiving environment and proximity to the nearest European site (Cork Harbour SPA (site code 004030) and the Great Island Channel cSAC (site code 001058)), it is reasonable to conclude on the basis of the information available, that the proposed development, individually and in combination with other plans or projects would not be likely to have a significant effect on any European site. An appropriate assessment (and submission of a NIS) is not therefore required.

11.0 Further Development

11.1. I note the concerns raised regarding possible future access points to the north west and south west of the proposed development due to “contractual obligations” that may open up vast tracks of land to the possibility of development in the future. It is my view that the appellant raises valid planning concerns with the regard to the future development of said lands. However as pointed out by the applicant any future development proposals at this location will be subject to the full rigours of the planning process.

12.0 Property Valuation

12.1. I note that concern is raised regarding the depreciation in adjoining residential property values together with the residential valuation report from Cohalon Downing Estate Agents & Valuers which inter alia shows a substantial diminution in value which it is stated is directly linked to the proposed development (reduction from €425,000 to €340,000).

12.2. The proposal is for a residential development on lands zoned for residential use where such developments is considered a permissible use and where it is reasonable to expect developments of this kind would normally be located. The dwellings proposed in terms of design, scale, layout and location are not considered

to be a bad neighbour in this context and I do not therefore consider that to permit this development would lead to a significant devaluation of property values in the vicinity. Accordingly, I am satisfied that this matter is not material to the consideration of this appeal in this instance.

13.0 Conditions

- 13.1. Condition No 4 required the omission of Dwelling No 1 on the understanding that this site could accommodate a future crèche reducing the permitted development to 76 no dwellings in total. The Childcare Assessment submitted with the application highlighted the availability of adequate childcare spaces in Glanmire. I agree with the applicant that a crèche at the northern edge of this settlement would be unattractive to the wider population particularly given the challenging topography of the site.
- 13.2. Condition No 5 required the provision of a pedestrian link, with lighting, through the estate from the houses to the local road as an alternative to the footpath along the access road. The condition specifies that this link should have regard to Technical Guidance M in relation to stepped access / hand railing requirements and have regard to public security and safety in its design. The applicant points out that given the topography of the site it is not viable to provide for a link which complies with Technical Guidance M. It is recommended that this condition be omitted.
- 13.3. Condition No 43 requires the applicants to lay a new surface water sewer and river outfall downstream of the proposed development on lands which is outside the site boundary and over which the applicant has no control. Recommended that condition be omitted.
- 13.4. Condition No 72 requires the payment of €232,000 as a special development contrition in respect of works proposed to be carried out, for the provision of an upgrade of the junction of the local road with R610 at the Brook Inn and provide a footpath and public lighting on the public road. The applicants have no objection to paying an appropriate contribution to the exceptional costs of public infrastructure, which will benefit the proposed development.
- 13.5. Section 48(2)(c) of the Planning and Development Act 2000 states that a Planning Authority may, in addition to the terms of a scheme, require the payment of a special

contribution in respect of a particular development where specific exceptional costs not covered by the General Development Contribution Scheme are incurred by any local authority in respect of public infrastructure and facilities which benefit the proposed development. Only developments that will benefit from the public infrastructure or facility in question should be liable to pay the development contribution.

13.6. From the reports on file it appears that the special development contribution is to fund the entire cost of the works. I agree with the applicant that it appears that this is contrary to the legislative requirements of Section 48(2)(c) of the Planning and Development Act and does not comply with the Development Contributions Guidelines for Planning Authorities 2013. It is recommended that a Section 48(2)(c) Special Contribution Condition is attached but that the amount payable is proportional to the works benefitting the development.

14.0 Recommendation

14.1. Based on the above assessment I recommend that permission be granted for the proposed development for the reason and considerations set out below.

15.0 Reasons and Considerations

15.1. Having regard to the nature, scale and design of the proposed development as amended, to the residential zoning objective for the site as set out in the current Development Plan for the area and to the character of the general area, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential or visual amenities of the area or of property in the vicinity, would respect the existing character of the area and would be acceptable in terms of traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

16.0 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 3rd February 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. In relation to house type 3, the obscure glazed window on the side elevation serving the bedroom shall be omitted. Before any development commences, or, at the discretion of the Planning Authority, within such further period or periods of time as it may nominate in writing, revised drawings making provision for the above requirements shall be submitted to and agreed with the Planning Authority.

Reason: In the interests of residential amenity.

3. The Developer/Applicant shall reduce the retained height of the proposed reinforced concrete wall retaining structures along the access road to the satisfaction of the Planning Authority unless otherwise agreed with the Planning Authority. The Developer/Applicant shall include in his design a sufficiently wide level area along the top of all of the retaining structures to the satisfaction of the Planning Authority. The Developer/Applicant shall design/provide a side slope at a maximum of 1 in 2 (vertical to horizontal ratio) in the ground behind the retaining structures from the back edge of the wide level area provided at the top of the retaining structure. The extent of this “tapering”/side slope excavation shall be finalised to the satisfaction of the Planning Authority.

Reason: In the interest of orderly development.

4. Details of the materials, colours and textures of all the external finishes to the proposed dwellings shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

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

Reason: To ensure adequate servicing of the development, and to prevent pollution

6. (a) The roads and traffic arrangements serving the site (including signage) shall be in accordance with the detailed requirements of the planning authority for such works and shall be carried out at the developer's expense. Details in this regard shall be submitted to and agreed in writing with the planning authority prior to commencement of development.

(b) Footpaths shall be dished at road junctions in accordance with the requirements of the planning authority. Details of the locations and materials to be used in such dishing shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

(c) The internal road network to serve the proposed development (including junctions, parking areas, footpaths and kerbs) shall comply with the detailed standards of the planning authority for such road works.

(d) The materials used, including tactile paving, in any roads/footpaths provided by the developer to serve the school shall comply with the detailed standards of the planning authority for such road works.

Reason: In the interests of traffic, cyclist and pedestrian safety.

7. Public lighting shall be provided in accordance with a scheme, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Such lighting shall be provided prior to the making available for occupation of any house.

Reason: In the interest of amenity and public safety.

8. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) 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 interest of visual and residential amenity.

9. . Proposals for an estate/street 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, all estate and street signs, and house numbers, shall be provided in accordance with the agreed scheme. No advertisements/marketing signage relating to the name(s) of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name(s).

. **Reason:** In the interest of urban legibility.

10. . The areas of public open space shown on the lodged plans shall be reserved for such use and shall be soiled, seeded, and landscaped in accordance with the detailed requirements of the planning authority. This work shall be completed before any of the dwellings are made available for occupation and shall be maintained as public open space by the developer until taken in charge by the local authority.

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

11. . The developer shall retain the services of a suitably qualified Landscape Architect (or qualified Landscape Designer) throughout the life of the site development works. A Practical Completion Certificate shall be signed off by the Landscape Architect when all landscape works are completed to the satisfaction of the planning authority in consultation with the Parks and Landscape Services Department, and in accordance with the permitted landscape proposals.

. **Reason:** In the interest of the proper planning and sustainable development of the area.

12. . Prior to commencement of development, the applicant or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the provision

of housing in accordance with the requirements of section 94(4) and section 96(2) and (3) (Part V) of the Planning and Development Act 2000, as amended, unless an exemption certificate shall have been applied for and been granted under section 97 of the Act, as amended. Where such an agreement is not reached within eight weeks from the date of this order, the matter in dispute (other than a matter to which section 96(7) applies) may be referred by the planning authority or any other prospective party to the agreement to An Bord Pleanála for determination.

Reason: To comply with the requirements of Part V of the Planning and Development Act 2000, as amended, and of the housing strategy in the development plan of the area.

13. . 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 noise management measures and off-site disposal of construction/demolition waste.

Reason: In the interest of public safety and residential amenity.

14. . A construction traffic management plan shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The plan shall include details of arrangements for routes for construction traffic, parking during the construction phase, the location of the compound for storage of plant and machinery and the location for storage of deliveries to the site.

Reason: In the interests of public safety and residential amenity

15. . Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Fridays inclusive, between 0800 to 1600 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

. **Reason:** In order to safeguard the amenities of property in the vicinity.

16. . A plan containing details for the management of waste, including proposals for operational stage within the development and the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the waste shall be managed in accordance with the agreed plan.

. **Reason:** To provide for the appropriate management of waste and, in particular recyclable materials, in the interest of protecting the environment.

17. . Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, to secure the provision and satisfactory completion and maintenance until taken in charge by the local authority of roads, footpaths, sewers, watermains and public lighting 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 or maintenance 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 and maintenance of the development until taken in charge.

18. . 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.

19. . The developer shall pay to the planning authority a financial contribution as a special contribution under section 48(2) (c) of the Planning and Development Act 2000 in respect of works to be carried out for the provision of an upgrade of the junction of the local road with the R610 at the Brook Inn and provide a public footpath and public lighting on the public road. The amount of the contribution 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 for determination. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be updated at the time of payment in accordance with changes in the Wholesale Price Index – Building and Construction (Capital Goods), published by the Central Statistics Office.

. **Reason:** It is considered reasonable that the developer should contribute towards the specific exceptional costs which are incurred by the planning authority which are not covered in the Development Contribution Scheme and which will benefit the proposed development.

Mary Crowley

Senior Planning Inspector

26th June 2017