



An  
Bord  
Pleanála

## Inspector's Report PL28.248318

### Development

The construction of a two storey dwelling to the rear of existing dwelling at No. 9 Castle Avenue, Blackrock and access from Gate Lodge Estate, Castle Road, Blackrock, Cork.

### Location

9 Castle Avenue, Castle Road, Blackrock, Cork.

### Planning Authority

Cork City Council

### Planning Authority Reg. Ref.

16/37049

### Applicant(s)

Aoife Byrne

### Type of Application

Permission

### Planning Authority Decision

Grant subject to conditions

### Type of Appeal

Third Party v. Decision

### Appellant(s)

Eoin Ryan

Paul & Kathleen O'Sullivan

### Observer(s)

None.

**Date of Site Inspection**

18<sup>th</sup> July, 2017

**Inspector**

Robert Speer

## 1.0 Site Location and Description

The proposed development site is located within an established residential area, approximately 4.5km east of Cork City Centre and 200m southwest of Blackrock Castle, to the south of Castle Road (the R843 Regional Road) in the suburb of Blackrock, where it occupies a position at the southernmost end of a narrow cul-de-sac of housing known as Castle Avenue. The surrounding area is characterised by a variety of housing development with the Castle Road itself predominantly composed of notable period residences, interspersed with instances of more modern / contemporary construction on infill sites, with views northwards over the River Lee whereas the lands to the immediate south and west of the application site are dominated by more conventional two-storey housing, including the Gate Lodge estate which comprises two-storey semi-detached and terraced dwelling houses. The cul-de-sac of Castle Avenue comprises a wider variety of housing styles / designs and includes single storey, dormer and two-storey detached, semi-detached and terraced construction. The site itself has a stated site area of 0.05 hectares, is rectangular in shape and presently comprises part of the rear garden area of No. 9 Castle Avenue (a detached dormer residence). It is bounded by an existing high wall to the south with the Gate Lodge Estate and a combination of walling, fencing and mature hedgerow / tree stands along the western and northern site boundaries. Access to the site is presently obtained directly from Castle Avenue, although it is proposed to open a new vehicular entrance onto an existing turning bay within the adjacent Gate Lodge estate to the immediate south.

## 2.0 Proposed Development

The proposed development involves the subdivision of the housing plot presently occupied by No. 9 Castle Avenue in order to facilitate the construction of a contemporary two-storey detached dwelling house in the rear garden area of same with an independent vehicular access onto the Gate Lodge housing estate. The overall design of the proposed dwelling house is based on a principle rectangular plan (sited along an east-west axis) with a stated floor of 158.6m<sup>2</sup> and a ridge height of 7.135m. It utilises an asymmetrical 'A'-frame roof construction and has been positioned on site so as to maintain the front building line of those properties to the

immediate south within the Gate Lodge estate. External finishes include blue / black fibre cement roof slates, uPVC downpipes and guttering, a smooth painted sand cement render and Tegral weatherboard sheeting to the entrance area. Access to the site will be obtained via a new vehicular entrance to be opened through the southern boundary wall onto Gate Lodge. Water and sewerage services are available from the public mains.

*N.B.* On 24<sup>th</sup> October, 2016, the Planning Authority issued a Certificate of Exemption pursuant to the provisions of Section 97 of the Planning and Development Act, 2000, as amended, with regard to the proposed development.

### **3.0 Planning Authority Decision**

#### **3.1. Decision**

Following the receipt of responses to requests for further information and subsequent clarification, on 13<sup>th</sup> March, 2017 the Planning Authority issued a notification of a decision to grant permission for the proposed development subject to 17 No. conditions. These conditions are generally of a standardised format and relate to issues including external finishes, construction management, infrastructural services and development contributions, however, the following conditions are of note:

Condition No. 6 – Requires details of the provision of a 1.8m wide footpath to tie into the existing footpath at Gate Lodge to be agreed in writing with the Planning Authority prior to the commencement of development.

Condition No. 7 – Requires details of the section of boundary wall fronting onto Gate Lodge, including the entrance pillars, to be agreed in writing with the Planning Authority prior to the commencement of development.

Condition No. 15 – Requires all tree felling and vegetation clearance works to be undertaken outside of the bird nesting season.

## 3.2. Planning Authority Reports

### 3.2.1. Planning Reports:

An initial report noted that the principle of the proposed development accorded with the relevant land issue zoning objective and further stated that the overall design and layout of the proposal was acceptable and would not give rise to any significant detrimental impact on the residential amenity of neighbouring properties by reason of overlooking or overshadowing. It was also considered that the submitted proposal was acceptable in terms of traffic safety and would not detract from the prevailing character of the Blackrock Road Architectural Conservation Area whilst any constructional impacts would be of an interim duration and could be satisfactorily mitigated by way of condition. However, concerns were raised as regards the legal entitlement of the applicant to open a new entrance through the intervening boundary wall between the site and the Gate Lodge estate and thus it was recommended that further details should be sought in this regard.

Following the receipt of responses to requests for further information and subsequent clarification, a final report was prepared which noted that whilst the applicant would not appear to have full ownership of the wall in question, and as the other part-owner (who provided an initial letter of consent) is now in liquidation, having regard to the provisions of Section 5.13 of the *'Development Management, Guidelines for Planning Authorities, 2007'* and Section 34(13) of the Planning and Development Act, 2000, as amended, it was considered that the Planning Authority was in a position to grant permission for the proposed development.

### 3.2.2. Other Technical Reports:

*Environment:* No objection, subject to conditions.

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

*Roads Design:* An initial report stated that whilst the Gate Lodge housing estate had been taken in charge by the Local Authority, clarification would be required as regards the ownership of the intervening boundary wall prior to any opening of an entrance through same.

Following the receipt of responses to requests for further information and subsequent clarification, a further report was prepared which made a series of

recommendations as regards the design of the proposed entrance arrangement and the need to provide a section of footpath between the new access and the existing footpath within the Gate Lodge estate.

### 3.3. Prescribed Bodies

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

*Health and Safety Authority:* States that the Authority does not advise against the granting of planning permission in the context of Major Accident Hazards.

### 3.4. Third Party Observations

A total of 7 No. submissions were received from interested parties and the principle grounds of objection contained therein can be summarised as follows:

- Detrimental impact on residential amenity by reason of overlooking, overshadowing, constructional impacts, disturbance etc.
- Devaluation of property.
- The overall design etc. of the proposed dwelling house is not in keeping with the surrounding pattern of development.
- Concerns with regard to the safety of the proposed access arrangement through the Gate Lodge estate, with particular reference to construction traffic.
- It is unclear if the applicant has the necessary interest / consent to open an entrance through the existing boundary wall onto the Gate Lodge estate.
- It was previously the understanding of local residents that no further development was to be served via the Gate Lodge estate.
- The positioning of the proposed entrance will result in the loss of an area presently used by local children for play purposes (given the absence of any passing traffic).
- The inadequacy of the road network to accommodate the anticipated construction traffic.

- Inadequacy of the sightlines / visibility from the proposed site entrance onto the public road.
- An alternative means of access to the proposed development should be developed from Castle Avenue.
- The design of the proposed entrance arrangement is out of character with the surrounding area.
- Concerns with regard to the potential for damage to third party properties.

## 4.0 Planning History

### On Site:

None.

### On Adjacent Sites:

PA Ref. No. 1536401. Was granted on 3<sup>rd</sup> August, 2015 permitting Linda Cullen and Adi Elkabets permission for A) Demolition to the existing flat roof section of dwelling to the rear. B) Construction of an additional storey over existing single storey dwelling with roof lights to front and back. C) A new single storey porch to the front. All at No. 8 Castle Avenue, Blackrock, Cork.

PA Ref. No. 1636712. Was granted on 31<sup>st</sup> March, 2016 permitting Linda Cullen and Adi Elkabets permission for the retention & completion of a two storey dwelling house with roof lights to front and rear at No. 8 Castle Avenue, Blackrock, Cork.

### On Sites in the Immediate Vicinity:

PA Ref. No. 1636848. Was granted on 19<sup>th</sup> July, 2016 permitting Mary Louise O'Donovan permission to erect a two storey dwelling attached to the gable of existing dwelling and all associated site works at No. 85, Gate Lodge, Castle Road, Mahon, Cork.

## 5.0 Policy Context

### 5.1. 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

### 5.2. 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:*

*Volume 1: Written Statement:*

*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 16: Development Management:*

*Part C: Residential Development:*

Objective 16.9: *Sustainable Residential Development:*

Residential developments shall be sustainable and create high quality places and spaces which:

- a) Deliver a quality of life which residents and visitors are entitled to expect in terms of amenity, safety and convenience;
- b) Provide adequate open space which are practical in terms of scale and layout and naturally supervised by the aspect of the dwellings it serves;
- c) Provide a good range of suitable facilities;
- d) Prioritise walking, cycling and public transport and minimise the need to use cars;
- e) Present an attractive appearance with a distinct sense of place;
- f) Are easy to access and navigate;
- g) Promote the efficient use of land in terms of density and plot ratio;
- h) Promote social integration and provides accommodation for a diverse range of household types and age groups;
- i) Enhance and protect the built and natural heritage.

*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 9.32: *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 16.58: Single Units Including Corner/Garden Sites:*

The planning authority will have regard to the following criteria in assessing proposals for the development of single units:

- The existing character of the area/street;
- Compatibility of design and scale with the adjoining dwelling paying particular attention to the established building line, form, heights and materials etc. of adjoining buildings;
- Impact on the residential amenities of adjoining areas;
- Open space standards;
- The provision of adequate car-parking facilities and a safe means of access and egress to and from the site;
- The provision of landscaping and boundary treatments;
- Trees and gardens which make a significant contribution to the landscape character of an area are retained and unaffected by the proposal.

*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).

### 5.3. Natural Heritage Designations

None.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

Eoin Ryan:

- The proposed development is contrary to the proper planning and sustainable development of the area.
- There are concerns with regard to the safety of the proposed means of access through the Gate Lodge estate, particularly during the course of construction works, and in this respect it is submitted that consideration should be given to the use of an alternative access route through the applicant's property in Castle Avenue.
- The design of the gate to the proposed development is not in keeping with adjoining properties in either Gate Lodge or Castle Avenue. In this regard it should be noted that driveways in the Gate Lodge estate are generally without gates whilst those few that are gated are not of a solid design.
- The ramp proposed from Gate Lodge does not provide for a safe means of access / egress to and from the proposed development and adjoining houses.

- The notification of the decision to grant permission as issued by Cork City Council provides for construction works to commence at 08:00 hours on Mondays to Saturdays and it is considered that the noise and disruption associated with construction vehicles will result in an excessive level of disturbance to local residents (with particular reference to local children). Accordingly, it is submitted that works should not be permitted to commence any earlier than 09:00 hours Monday-Friday and not before 10:00 hours on Saturdays.

Paul & Kathleen O'Sullivan:

- The positioning of the proposed dwelling house will result in overshadowing of the appellants' property.
- The Planning Authority failed to make contact with the appellants in order to view the potential impact of the proposed development on their dwelling house.
- The record of the pre-planning consultations held with the Planning Authority makes no reference to the siting of the proposed development relative to the appellant's bungalow at 'Marguirettes', Castle Road, which is located to the north of the application site.
- The appellants previously raised concerns with the applicant as regards the blockage of light and the dangers posed by existing vegetation and trees on site. These concerns were not addressed by the applicant whilst the grant of permission for the subject proposal as issued by the Planning Authority has similarly failed to address same.
- It is considered that there are discrepancies in the submitted drawings as regards the ridge heights of the proposed development and the appellants' dwelling house.
- The contents of the appellants' original objection have not been satisfactorily resolved.
- Whilst the Planning Authority required the proposed dwelling house to follow the established building line within the Gate Lodge estate to the south, inadequate consideration has been given to the siting of the proposed

construction relative to the appellants' property to the north of the application site.

- The proposed development will result in overlooking and overshadowing of the appellants' dwelling house.

#### **6.2. Applicant's Response**

None.

#### **6.3. Planning Authority's Response**

No further comments.

#### **6.4. Observations**

None.

#### **6.5. Further Responses**

None.

### **7.0 Assessment**

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

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

These are assessed as follows:

7.1. **The Principle of the Proposed Development:**

With regard to the overall principle of the proposed development, it is of relevance in the first instance to note that the subject site is 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 in the immediate vicinity of the application site is dominated by conventional housing construction. In this respect I would suggest that the proposed development site 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 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 the infill nature of the site itself, 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.

7.2. **Overall Design and Layout / Impact on Built Heritage:**

In terms of the overall design and layout of the proposed development, in my opinion, the submitted proposal represents an appropriately designed and scaled response to the site context given its backland location and positioning relative to neighbouring residential properties. In this regard whilst I would concede that the submitted proposal is somewhat more contemporary in appearance than the



prevailing pattern of development, with particular reference to the conventional housing construction to the immediate south and west of the site, I am nevertheless satisfied 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, the proposed development can be satisfactorily assimilated into the area without adversely affecting the inherent character of the architectural conservation area.

Therefore, on the basis of the foregoing, I am satisfied that the overall design and layout of the proposed development is acceptable.

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

Concerns have been raised in the grounds of appeal that the proposed development will have a detrimental impact on the residential amenity of neighbouring property by reason of overlooking with an associated loss of privacy. In this respect, whilst I would acknowledge that the backland nature of the proposed development site and the siting of a dwelling house to the rear of existing properties has the potential to give rise to overlooking with a consequential loss of residential amenity, having regard to the site context within a built-up urban area and the surrounding pattern of development, I am inclined to suggest that the overall scale, design, positioning and orientation of the proposed dwelling house has taken sufficient cognisance of the need to preserve the residential amenity of neighbouring housing and will not give rise to any significant detrimental impact on same by way of overlooking. In support of the foregoing, I would draw the Board's attention to the absence of any first floor windows within the north and south facing elevations of the proposed dwelling house whilst it is also of relevance to note that the rooflights proposed within these elevations will be located at least 1.8m over floor level and will serve less intensively used internal spaces (i.e. a study area, an ensuite bathroom, and a void over the ground floor entrance hallway). In addition, it should be noted that the siting of the proposed dwelling house so as to follow the building line established by the adjacent housing to the immediate south serves to provide a clear separation distance of 28.2m between the proposed dwelling and the existing residence at No. 9 Castle

Avenue (*N.B.* Whilst I would have some reservations as regards the adequacy of the 19.8m separation distance between the first floor windows within the western elevation of the proposed development and those of the opposing elevations of the existing dwelling houses to the immediate west, I note that the prevailing pattern of development provides for a comparable separation distance between the rear elevations of the existing two-storey dwelling houses within Gate Lodge and Coach House Avenue. In the event that the Board is not satisfied with the separation proposed between the new construction and the existing housing to the west, it would be feasible to reposition the proposed dwelling house further eastwards by way of condition without unduly compromising the separation distance to No. 9 Castle Avenue whilst the consequential deviation from the established building line would be unlikely to detract to any significant degree from the overall character of the area).

In relation to the potential for the proposed development to give rise to a loss of light or overshadowing of the neighbouring dwelling house to the immediate northwest (i.e. the residence of Paul & Kathleen O'Sullivan), having regard to the siting of the proposed development relative to that property, whilst I would accept that there is a likelihood of some degree of impact, I would suggest that any such effect must be taken in context. In this regard, it is notable that the positioning and proximity of the existing single storey dwelling house known as 'Marguiettes' relative to its southern and western property boundaries already serves to significantly limit the levels of natural daylight and / or direct sunlight received by the southern elevation of that dwelling house (*N.B.* It would appear that the siting of the appellants' dwelling house aims to avail of an easterly sun). Furthermore, the presence of the intervening boundary wall shared with the subject site, in addition to the existing mature planting within the confines of the application site, also serves to limit the amount of daylight / sunlight received by the appellants' property. In addition to the foregoing, it is of relevance to note the separation distance between the respective dwelling houses whilst cognisance should also be taken of the siting of the proposed construction relative to the appellant's dwelling house as it will not be positioned directly due south of same but will instead be stepped 'forward' further east. It should also be noted that the appellants' property will continue to benefit from direct sunlight /

daylight throughout a considerable proportion of the day, notwithstanding any interruption or diminution of same consequent on the proposed development.

Accordingly, on balance, I would suggest that any reduction in the amount of direct sunlight received by the neighbouring property consequent on the subject proposal would not be of such significance as to warrant a refusal of permission.

With regard to the potential impact of the construction of the proposed development on the residential amenities of surrounding property, whilst I would acknowledge that the proposed development site adjoins an established residential area (i.e. the Gate Lodge housing estate) and that any construction traffic routed through same could give rise to the disturbance / inconvenience of local residents, given the limited scale of the development proposed, and as any constructional impacts arising will be of an interim nature, I am inclined to conclude that such matters can be satisfactorily mitigated by way of condition.

#### 7.4. **Traffic Implications:**

Concerns have been raised in the grounds of appeal with regard to the proposal to access the proposed dwelling house through the adjacent Gate Lodge housing development, however, having conducted a site inspection, I am satisfied that the existing roadway which serves the Gate Lodge estate, and from which access to the proposed dwelling house will be obtained, has sufficient capacity to accommodate the additional traffic consequent on the proposed development. Whilst it has also been suggested that it would be preferable if the proposed dwelling house were to be accessed by means of an alternative entrance arrangement via Castle Avenue, in my opinion, given the restricted carriageway width of that roadway, the absence of a dedicated pedestrian footpath alongside same, and the substandard junction of Castle Avenue with Castle Road, it is clear that the proposal to access the subject site via a new entrance onto Gate Lodge represents the preferred option. Furthermore, I would suggest that the proposed access arrangement is reasonably comparable to a typical domestic driveway opening onto an estate roadway, although I would accept that it would be desirable to provide a new footpath alongside the site frontage onto the roadway in order to allow for improved visibility on exiting the site and pedestrian movement.

With regard to the detailed design of the proposed site entrance, in my opinion, the submitted details are acceptable and I would further suggest that matters such as the specifics of the boundary treatment can be satisfactorily addressed by way of condition in the event of a grant of permission.

**7.5. Appropriate Assessment:**

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

**7.6. Other Issues:**

Procedural Issues:

With regard to the accuracy and adequacy of the submitted plans and particulars, I would concur with the appellants that 'Site Section A-A' as detailed on Drg. No. 1004 Rev. A (as received by the Planning Authority on 10<sup>th</sup> November, 2016) does not provide an accurate depiction of their existing single storey dwelling house relative to the proposed development, however, notwithstanding the aforementioned discrepancy, it is my opinion that there is adequate information on file to permit a balanced and reasoned assessment of the proposed development which in turn supports a recommendation to grant permission.

Land Ownership / Consent:

With regard to the proposal to open a new access through the shared (southern) boundary wall onto the Gate Lodge estate, the Board is advised that the subject application, as initially submitted to the Planning Authority, was accompanied by a letter dated 17<sup>th</sup> May, 2013 and signed by a representative of the relevant landowner (i.e. O'Brien & O'Flynn Builders) which indicated that it had no objection to the proposed entrance arrangement or use of adjacent services. However, it would appear that some time after the issuing of that correspondence the firm involved went into liquidation and thus receivers are now effectively in charge of the firm's assets. Accordingly, whilst the Planning Authority sought clarification by way of a request for further information as regards the applicant's legal interest in the subject

site, with particular reference to the proposal to open an entrance through the shared boundary wall and to traverse the intervening lands, the applicant has indicated that she is not in a position to provide any further details in respect of same, save for the submission of correspondence from the receivers which simply states that they are not in a position to add anything to the original letter of 17<sup>th</sup> May, 2013.

Having reviewed the available information, in my opinion, the subject application was lodged 'in good faith' and was accompanied by a suitable letter of consent from the then landowner which indicated that it was amenable to the applicant's proposals. Whilst I would accept that the circumstances surrounding the shared ownership of the party wall between the application site and the Gate Lodge estate have since changed, the subject application nevertheless remains valid and a decision should issue. Therefore, I am inclined to suggest that any concerns pertaining to the continuing validity (or not) of any 'agreement' or 'consent' between the applicant and the previous landowner, in addition to the potential for any trespass or interference with third party property consequent on the proposed development, would amount to a civil matter for resolution between the parties concerned. I would also draw the Board's attention to Section 34(13) of the Planning and Development Act, 2000, as amended, which states that '*A person shall not be entitled solely by reason of a permission under this section to carry out any development*'.

## **8.0 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:

## **9.0 Reasons and Considerations**

Having regard to the location and residential zoning of the site, the pattern of development in the area, and the scale and design of the proposed dwelling, 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 offer a satisfactory level of residential amenity to future

occupants, 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.

## 10.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application as amended by the further plans and particulars submitted on the 10<sup>th</sup> day of November, 2016, the 30<sup>th</sup> day of December, 2016 and the 15<sup>th</sup> day of 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. 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. The proposed site access/egress arrangements shall be designed and finished to prioritise pedestrian movement along a new 1.8 metre wide footpath to be provided alongside Gate Lodge in accordance with the Design Manual for Urban Roads and Streets. Revised drawings showing compliance with this requirement shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

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

4. The proposed vehicular site entrance shall not exceed more than three metres in width. Gates at the entrance shall be designed so that they are not capable of being opened outwards.

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

5. 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. All existing over ground cables shall be relocated underground as part of the site development works.

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

6. 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.

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. 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 waste.

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

10. Site development and building works shall be carried out 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 site development and construction works shall be carried out in such a manner as to ensure that the adjoining streets are kept clear of debris, soil and other material and cleaning works shall be carried out on the adjoining public roads by the developer and at the developer's expense on a daily basis.

**Reason:** To protect the residential amenities of property in the vicinity.

12. 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.

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

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

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Robert Speer  
Planning Inspector

21<sup>st</sup> July, 2017