



An  
Bord  
Pleanála

## Inspector's Report PL04.249194

### Development

Permission for the construction of 73 no. residential units and all associated ancillary development works including access roads, parking, footpaths, landscaping, drainage and amenity areas. Access to the proposed development will be via the existing entrance and access onto the Eagle Valley Road.

### Location

Sarsfield Road, Doughcloyne, Wilton, Cork

### Planning Authority

Cork County Council

### Planning Authority Reg. Ref.

17/04877

### Applicant(s)

George Maloney – Joint Statutory Receiver of O'Brien & O'Flynn Unlimited Company (In receivership and liquidation).

### Type of Application

Permission

### Planning Authority Decision

Grant

<b>Type of Appeal</b>	Multiple: First and Third Party
<b>Appellant(s)</b>	George Maloney – First Party v S48 Condition Eagle Valley Association of Residents and Home Owners v grant of permission.
<b>Observer(s)</b>	Jane Roche Councillor Seamus McGrath Jamie O'Rourke Donnachadh O Laoghaire TD Garrane Darra Management Company Ltd
<b>Date of Site Inspection</b>	24 <sup>th</sup> October, 2017
<b>Inspector</b>	A. Considine

## **1.0 Site Location and Description**

1.1. The site the subject of this appeal is located approximately 4km to the south west of Cork City, outside the city boundaries, in the townland of Doughcloyne, Wilton. The site comprises an undeveloped area of land which has frontage onto Sarsfield Road to the east and the Eagle Hall Road, to the south of the site. Eagle Hall Road provides access to the wider Eagle Valley and Garrane Darra residential estates. The area has a mix of uses, including the Doughcloyne Industrial estate to the north and residential to the west. Immediately to the west, there is an industrial unit with a church and funeral home to the south, across the Eagle Hall road. The site has a stated area of 2.5ha and is currently an overgrown greenfield site.

## **2.0 Proposed Development**

- 2.1. The application to Cork City & County Council was for permission for the construction of 73 no. residential units and all associated ancillary development works including access roads, parking, footpaths, landscaping, drainage and amenity areas. Access to the proposed development will be via the existing entrance and access onto the Eagle Valley Road all at Sarsfield Road, Doughcloyne, Wilton, Cork.
- 2.2. The proposed development comprises a mix of 73 residential units including 16 no. semi-detached houses, 29 no. town houses, 14 no. duplexes and 14 apartments. The proposed development will employ a number of materials including render and brick finishes to the walls and slate to the pitched roofs and zinc to flat roofs. The design provides for grey uPVC double glazed windows and uPVC/hardwood door with side glazed vision panels. Soffit and fascia will be black uPVC and gutters and downpipes will be black aluminium. The balustrades for the duplex balconies are indicated as being glass. Each house is proposed to be provided with 2 car parking spaces.
- 2.3. Following a request for further information, the development was amended and a scheme of 69 residential units was proposed. The layout proposed the introduction of two town houses in Block 14 within the previous open space area to the west of the site. The reduction in units includes 1 block of 2 apartments and 2 duplex units and 2 town houses. The permitted development omitted the two town houses

proposed within the open space area and overall provides a development of 67 residential units, and a density of 26.8 houses per hectare as follows:

Type	Unit Type	Floor Area	No
A-1	Semi-detached (4-bed)	139.9m <sup>2</sup>	4
A-2		138.7m <sup>2</sup>	2
A-3		140.3m <sup>2</sup>	2
B	Semi-detached (3-bed)	115.7m <sup>2</sup>	8
C-1	Townhouse (3-bed)	106.6m <sup>2</sup>	12
C-2		90.0m <sup>2</sup>	4
C-3		90.0m <sup>2</sup>	5
C-4		No details provided for C-4	6
D-2	2 storey Duplex (3-bed)	103.0m <sup>2</sup>	6
D-3		103.0m <sup>2</sup>	4
D-4		103.0m <sup>2</sup>	1
D-5		103.0m <sup>2</sup>	1
E-2	Ground Floor apartment (3-bed)	80.0m <sup>2</sup>	6
E-3		80.0m <sup>2</sup>	4
E-4		80.0m <sup>2</sup>	1
E-5		83.3m <sup>2</sup>	1

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

- Construction & Environmental Management Plan
- Engineering Design Report
- Public Lighting Design Report
- Traffic & Transport Assessment
- Landscape Masterplan drawing & Landscape Development Drawings
- Appropriate Assessment Screening Statement
- Planning Application Form and relevant Plans and Particulars for the proposed development.

## 3.0 Planning Authority Decision

### 3.1. Decision

Following the submission of response to the further information request, the Planning Authority decided to grant planning permission for the proposed development, subject to 51 conditions, including the following:

- Condition 2: 67 residential units only
- Condition 3: Omission of F1/F2 and amendments to open space area.
- Condition 4: Details of northern boundary to be agreed.
- Condition 7: Requirements to meet the Recreation and Amenity Policy.
- Condition 8: Special Development Contribution of €92,000.00 for the provision of local amenities and facilities including provision of a walkway under policy objective SE U-01. The full condition states as follows:

At least one month before commencing development or at the discretion of the Planning Authority within such further period or periods of time as it may nominate in writing, the developer shall pay a special contribution of €92,000.00 to Cork County Council, updated monthly in accordance with the Consumer Price Index from the date of grant of permission to the date of payment, in respect of specific exceptional costs not covered in the Council's General Contributions Scheme, in respect of works proposed to be carried out, for the provision of local amenities and facilities including provision of a walkway under policy objective SE U-01. The payment of the said contribution shall be subject to the following: -

(a) where the works in question— (i) are not commenced within 5 years of the date of payment of the contribution (or final instalment if paid by phased payment), (ii) have commenced but have not been completed within 7 years of the date of payment of the contribution (or final instalment if paid by phased

payment), or (iii) where the Council has decided not to proceed with the proposed works or part thereof, the contribution shall, subject to paragraph (b) below, be refunded to the applicant together with any interest which may have accrued over the period while held by the Council.

(b) Where under subparagraphs (ii) or (iii) of paragraph (a) above, any local authority has incurred expenditure within the required period in respect of a proportion of the works proposed to be carried out, any refund shall be in proportion to those proposed works which have not been carried out.

(c) Payment of interest at the prevailing interest rate payable by the Council's Treasurer on the Council's General Account on the contribution or any instalments thereof that have been paid, so long and in so far as it is or they are retained unexpended by the Council.

**Reason:** It is considered appropriate that the developer should contribute towards these specific exceptional costs, for works which will benefit the proposed development.

- Condition 9: Protection of trees.
- Condition 11: Management company.
- Condition 15: Bond
- Condition 44: Development Contribution of €125,871.25.

## 3.2. Planning Authority Reports

### 3.2.1. Planning Reports

The Planning Officers initial report considered the proposed development in terms of the requirements of the Development Plan, the density and dwelling mix, design & residential amenity, visual impact and landscaping, public open spaces, roads and traffic issues, the Planning History pertaining to the site as well as the comments and submissions from internal departments and external bodies, including third party

objectors. The report recommends that FI is sought with regard to a number of issues including as follows:

- Provision of pedestrian and cycle path.
- Provision of buffer zone between proposed houses and adjoining developments.
- Omit units 12, 13, 46-49 and retain buffer zone free from structures.
- Open space provision, recreational and amenity facilities proposed are not acceptable. Amendments and clarification required.
- Revised site layout to incorporate a number of existing trees.
- Proposed site layout not acceptable. Revisions required.
- Revised drawings to comply with car parking requirements.
- Storm attenuation and water main layout details required.
- Management proposals for the duplex / apartment units.
- Proposals to comply with Part 8.
- Noise assessment.
- Public lighting.

Following receipt of the response to the FI request, the final planners report notes that while the bulk of issues raised have been dealt with, three significant issues remain in relation to the relationship with the neighbouring businesses, open space provision and parking. The report recommends that permission be granted.

### 3.2.2. Other Technical Reports

Public Lighting: Additional information required and conditions included.

Following the submission of a response to the further information request, there were no objections to the proposed development subject to compliance with conditions.

Housing Officer: The applicant proposes to transfer 7 units to Cork County Council in lieu of its obligations under Part V. this is considered acceptable.

Following the submission of a response to the further information request, there were no further comments.

Estates Section: A number of concerns are raised in relation to the open space layout, parking, road layout, clarification on the layout of existing services through the site, finished floor levels and proposals for the future management / maintenance of the proposed duplex and apartment units.

Following the submission of a response to the further information request, concern remained in relation to parking proposal. Conditions are included should permission be granted.

Area Engineer: Further information is required in relation to both external and internal access, including the requirement to provide 2 parking spaces per unit plus additional visitor spaces and surface water.

Following the submission of a response to the further information request, concern remained in relation to parking proposal. Conditions are included should permission be granted.

### 3.3. Prescribed Bodies

Dublin Airport Authority: Notes that the proposed development site is partly located within the Outer Airport Noise Zone and wholly within the Outer Public Safety Zone for Cork Airport. The submission requires that the existing and predicted noise environment be assessed and that appropriate mitigation measures be proposed.



Inland Fisheries Ireland: No objection subject to the Irish Water signifying sufficient capacity in the existing treatment facilities for waste water.

Irish Water: No objection

### 3.4. Third Party Observations

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

#### 3.4.1. Mainline Group:

Concerns raised in relation to the Traffic Assessment Report which does not take into consideration the traffic situation on Eagle Valley Road during a funeral. A hard shoulder should be created insider the existing left turning lane to remove the impact of parking in the lane and thereby reducing the impact of the additional traffic created by the development.

#### 3.4.2. South Coast Sales:

The site lies directly adjacent to an industrial area, and is not appropriate for the proposed development. The proposed houses are at extremely short distance from the boundary which is unsustainable in the longer term for both business and future residents.

#### 3.4.3. Eagle Valley Residents Association:

The issues raised in this submission are summarised as follows:

- Zoning
- Roads and Traffic issues
- The area will become a mainly residential area and the chief planning principle then would be that residential amenity would be the most important consideration for any further development proposals. A number of amendments to the scheme are identified, which include but are not limited to, the provision of community facilities, the retention of mature trees, additional parking and a detailed assessment of the local play areas.
- It is hoped that the planning authority will take previous experiences in the area, including issues of non-compliance with planning conditions, into consideration.

#### 3.4.4. Siobhan Lydon:

Issues raised in relation to the following:

- Roads, traffic and parking during funerals
- Existing parking in Eagle Valley have inadequate parking
- Issues raised in relation to the location of play area to roads and children from the existing 300+ houses are likely to use the new play areas.
- Impacts on wildlife using the site.

## 4.0 Planning History

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

#### 4.1.1. On Site:

**ABP ref PL04.242829 (PA ref 13/5437):** Permission granted to O'Brien and O'Flynn for the construction of 2 no. office blocks (Block A & B) with car parking at ground and basement level, vehicular access on to Eagle Valley road, footpaths, lighting, signage, landscaping and amenity areas, and all associated ancillary development works.

**ABP Ref. PL04.240296 (PA Ref. 11/5791):** Permission was refused on appeal on 7th March, 2013 refusing O'Brien and O'Flynn permission for a mixed-use development comprising the construction of (a) two number office buildings (Blocks A and B), (b) a vehicle service station to include a convenience shop (with food preparation and dining area), car wash and covered forecourt area for fuel sales, (c) a discount convenience retail unit (with provision for ancillary alcohol sales), (d) a restaurant with drive-thru facility for the sale of hot food for consumption off the premises, and (e) all associated ancillary development works including loading and storage areas, staff facilities, car parking (to be provided at ground and basement level) vehicular access onto Sarsfield Road and Eagle Valley Road, footpaths, plant, lighting, signage and landscaping, for the reasons including:

- lacking a comprehensive public transport system, where road capacity is limited and where employment within the proposed development,

would be mainly car dependent with proximate access off the heavily-trafficked junction on the Southern Ring Road.

- Would not support the major investment in expanding rail transport in the Cork Area.
- Unsustainable location for a development of this scale and nature.
- the proposed development would adversely affect the viability and vitality of established district, local and neighbourhood centres

**ABP Ref. PL04.231659 (PA Ref 07/12955):** Permission was refused on appeal on 2nd October, 2009 refusing O'Brien and O'Flynn permission for the construction of (a) two number three-storey office buildings, each with an option for internal sub-division of up to five number units for office use, with a roof terrace and plant provided at roof level (Blocks A, B and C); (b) a four-storey office building with an option for internal sub-division of up to eight number units for office use, with plant provided at roof level, (Block B); (c) a two-storey building comprising a café and sandwich bar at ground floor level and office use at first floor level with an option of internal sub-division of up to two number office units and with plant provided at roof level, and (e) all associated ancillary development works including a new vehicular entrance, bus shelter, footpaths and landscaping. Car parking will be provided at underground/basement and surface level with one number kiosk access point (Building E) to the underground/basement car parking, for reasons of non-compliance with the specific zoning objective for the site.

**ABP ref. PL04.106655 (PA ref 98/485):** Permission was refused on appeal on 11th December, 1998 refusing O'Brien and O'Flynn Ltd. permission for a development comprising the construction of 5,100 square metres of retail warehousing/storage, petrol filling station and shop together with associated site and road development works.

A series of planning applications from 1975 to 1983 were also noted in the Planning Authority report, most of which relate to the provision retail sales / industrial units / warehouse units and office units as well as residential.

#### 4.1.2. On Adjacent Sites:

**PA Ref. 03/381:** Permission was granted on 2nd May, 2003 permitting the Office of Public Works permission for renovations, new roof and refurbishment of driving test centre and temporary portacabin accommodation at Sarsfield Road, Doughcloyne, Cork.

## 5.0 Policy Context

### National Policy / Guidelines

#### 5.1. Sustainable Residential Development in Urban areas, Guidelines (DoEHLG, 2009):

5.1.1. These statutory guidelines update and revise the 1999 Guidelines for Planning Authorities on Residential. The objective is to produce high quality – and crucially – sustainable developments:

- quality homes and neighbourhoods,
- places where people actually want to live, to work and to raise families, and
- places that work – and will continue to work - and not just for us, but for our children and for our children’s children.

5.1.2. The guidelines promote the principle of higher densities in urban areas as indicated in the preceding guidelines and it remains Government policy to promote sustainable patterns of urban settlement, particularly higher residential densities in locations which are, or will be, served by public transport under the *Transport 21* programme.

5.1.3. Section 5.6 of the guidelines suggest that there should be no upper limit on the number dwellings permitted that may be provided within any town or city centre site, subject to the following safeguards:

- compliance with the policies and standards of public and private open space adopted by development plans;
- avoidance of undue adverse impact on the amenities of existing or future adjoining neighbours;
- good internal space standards of development;

- conformity with any vision of the urban form of the town or city as expressed in development plans, particularly in relation to height or massing;
- recognition of the desirability of preserving protected buildings and their settings and of preserving or enhancing the character or appearance of an Architectural Conservation Area; and
- compliance with plot ratio and site coverage standards adopted in development plans.

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

In terms of the design of the proposed development, including the entrance and access to the site, it is a requirement that they be considered against the Design Manual for Urban Roads and Streets (DEMURS), DoTTS, March 2013. This Manual replaces DMRB in respect of all urban roads and streets and it does not differentiate between public and private urban streets, where a 60kph speed limit or less applies. The implementation of DMURS is obligatory and divergence from same requires written consent from relevant sanctioning authority (NRA, NTA or DTT&S). The Manual seeks to address street design within urban areas (i.e. cities, towns and villages) and it sets out an integrated design approach.

## **5.3. Development Plan:**

5.3.1. The Cork County Development Plan 2014 is the statutory Development Plan for County Cork. Chapter 3 of the County Development Plan deals with housing.

5.3.2. The subject site is located within an area which is included in the Carrigaline Electoral Area Local Area Plan, 2014 and on lands identified as being located within an 'Existing Built Up Area', Cork City South Environs. The LAP notes that This approach has been taken in order to allow a more positive and flexible response to proposals for the re-use or re-development of underused or derelict land or buildings particularly in the older parts of the main towns.

#### **5.4. Ballincollig Carrigaline Municipal District Local Area Plan 2017**

5.4.1. In 2016, Cork Co. Council produced the Draft Ballincollig Carrigaline Municipal District Local Area Plan which includes the subject site. This Draft LAP was adopted and came into effect on the 21<sup>st</sup> August, 2017 and is therefore relevant in the consideration of this appeal. The site is zoned SE-R-12 which is a residential zoning. This zoning has the following specific development objectives:

Medium A density residential development. Any proposals for this site will include a detailed traffic impact assessment and will address the need for road and junction improvements in the vicinity.

The objective also notes that Airport Public Safety Zones and Obstacle Limitation Surfaces Objective applies.

5.4.2. Development Objective SE-U-01 seeks to maintain pedestrian walk on route of old railway line.

#### **5.5. Natural Heritage Designations**

The subject site is located at a distance of approximately 12km from the nearest cSAC, Great Island Channel, cSAC Site Code 001058, and 5km from the Cork Harbour SPA, Site Code 004030. The site is not located within any designated site.

## 6.0 The Appeal

This is a multiple appeal including a first party appeal against a development contribution condition and a third party appeal from the Eagle Valley Association of Residents & Home Owners, against the decision to grant permission.

### 6.1. Grounds of Appeal

#### 6.1.1. First Party Appeal:

The applicant has appealed the inclusion of condition 8 in the grant of planning permission which seeks the payment of a Special Development Contribution of €92,000.00 for the provision of local amenities and facilities including provision of a walkway under policy objective SE U-01. The grounds of appeal are summarised as follows:

- The charge for the provision of an amenity walk is neither exceptional nor specific to the applicants development and is therefore not in accordance with the requirements of Sections 48(2)(c) and 48(12) of the Act.
- The contribution levy is based on the incorrect premise that there is a 'deficiency' in recreation and amenity points in the permitted development.
- There is an anomaly in the decision which seeks a special development contribution for a perceived shortfall in recreation and amenity points, yet Condition 7 requires the applicant to provide a suite of amenities to meet the requirements of the Councils Recreation and Amenity Policy.
- The requirement of the special development contribution, in addition to the general development contribution constitutes a double charge and is inconsistent with the Development Contributions Guidelines for Planning Authorities.
- There are a number of precedents where the Board have omitted such special contributions in similar circumstances.

### 6.1.2. Eagle Valley Association of Residents & Home Owners:

The submission presents a context to the Eagle Valley Road and its surroundings and an assessment of the zoning afforded to the site. The grounds of appeal are summarised as follows:

- **Traffic impacts:** It is asked that the Board determine that the proposed development is premature in the absence of a detailed traffic impact assessment, which takes into account the full scale and variety of existing and future traffic movements in the wider area.
- **Land use conflicts:** It is considered that the area has a complex mix of land uses, many of which are not compatible. It is considered that the development is premature pending the preparation of a comprehensive overall master plan for the Eagle Valley Road area.
- **Visual impacts:** The proposed development will seek the removal of trees and vegetation.

### 6.2. **Applicant Response**

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

- The development was subject to a comprehensive traffic assessment which comprehensively demonstrates that the proposed development will not exacerbate traffic in the area.
- Residential development on the site is entirely appropriate and consistent with the Council's objectives for the area. The appellant incorrectly refers to the zoning of the site as 'existing built-up area' in the now redundant 2011 Local Area Plan rather than the 2017 Ballincollig-Carrigaline Municipal District LAP which zones the land for Medium A Residential Development.
- The scale and layout of the proposed residential development is entirely appropriate and will make a positive contribution to the Sarsfield Road / Eagle Valley area.
- It is requested that the Board note the intention of the applicant to provide 4 no. additional residential units in the north west corner of the site when the ESB sub-station is relocated. It is also requested that the two units omitted by



condition be reinstated. This will bring the total number of units to 73 and a net residential density of 35 units per hectare. A pedestrian link to Eagle Valley should also be provided.

### 6.3. Planning Authority Response

6.3.1. The PA has not responded to the first of third party appeals.

### 6.4. Observations

There are five observations noted in relation to the subject appeal.

6.4.1. Dublin Airport Authority:

This observation notes the location of the subject site partly within the Outer Airport Noise Zone and requests that should the Board be minded to grant permission for the development, a condition requiring an appropriate level of noise mitigation be implemented across the development. Condition 5 of the Cork County Councils decision is recommended and states as follows:

All recommendations and measures contained in the Noise Assessment Report submitted on the 18/07/2017 shall be undertaken in regards to the proposed development.

**Reason:** In the interest of orderly development and residential amenity.

6.4.2. Cllr. Seamus McGrath:

Cllr. McGrath notes the concerns of the residents of Eagle Valley and raises concerns regarding the roads and traffic implications of the proposed development. It is submitted that consideration should be given to having a direct access onto Sarsfield Road to the development. It is further considered that the development represents an overdevelopment of the site and that more recreational facilities should be provided and increased buffer zones between the development and commercial entities. If sufficient buffer zones are not provided, it will inevitably give rise to conflicts in the future on issues such as noise and light pollution, visual intrusion, possible dust, emissions and odour pollution.

6.4.3. Mainline Group:

This company is located immediately to the west of the subject site and strongly disagrees with the proposed residential development on the basis of roads and traffic issues but also in terms of proper planning where 'bad neighbours' should not be sited next to each other. Mainline is a business that operates long working hours with bulky deliveries, movements by large articulated vehicles, waste storage, plant and machinery loading and unloading of various work vehicles, all with load reversing beacons.

The site is surrounded by non-residential development on the north west and south sides with a busy road to the east. If permission is granted, the business will be surrounded on three sides by residential development which was not intended when the area was originally zoned and would not be good planning practice. Mainline, and other businesses in the area have a reasonable expectation of continuing business in-situ long-term. Experience shows that future residents are likely to complain or object to certain non-residential developments and trying to enforce buffer zones can be problematic.

Traffic issues arise in terms of the shared access road and access to the site during funerals.

6.4.4. Donnchadh O'Laoghaire, TD:

Mr. O'Laoghaire, TD supports the concerns of the residents in terms of roads, traffic and parking issues in the Eagle Valley Estate. The observation also references the comments of the appellants in relation to the need for a masterplan for the area and in terms of the mixed uses. In relation to the 20m buffer imposed, it is submitted that the residential blocks will not be able to exercise the normal enjoyment of their homes by extending, modifying into their private open space.

6.4.5. Garrane Darra Management Company Ltd:

Issues raised are similar to those already raised and described above and include as follows:

- Traffic and parking issues and road safety
- Flood risk

## 6.5. Further Responses

The third party appellant responded to the first party response to the third party appeal. The submission is summarised as follows:

- Do not agree that the first party has successfully argued against the third party grounds of appeal.
- The traffic impact assessment submitted is not accepted. It is wrong to suggest that roads and junctions in the vicinity are functioning well and that traffic volumes and patterns of the new development would not exacerbate the situation.
- It is submitted that none of the other uses adjoining the site are residential.
- While the site is now zoned for residential use, the test for proper planning set out in the County Development Plan for areas where there are adjoining land uses with different requirements in terms of environmental standards still apply.
- The land adjoins commercial, civic and office based uses and therefore the residential zoning is unsound. It is understood that it is within the Boards power to set aside an objective (such as a zoning one) if it is not consistent with other objectives in the Plan.
- Regardless of the zoning, it is contended that a sound planning decision must safeguard the reasonable needs of existing nearby users as well as the residential amenity of new residents.
- It is considered that the application is premature pending the preparation of a master plan for the mixed use area and the full resolution of traffic issues.
- The scale and density is different from other housing schemes in the area and in residential terms, would be out of character with the area.
- Concerns raised regarding the pedestrian through routes.

## 7.0 Assessment

Having undertaken a site visit and having regard to the relevant policies pertaining to the subject site, the nature of existing uses on and in the vicinity of the site, the nature and scale of the proposed development and the nature of existing and permitted development in the immediate vicinity of the site, I consider that the main issues pertaining to the proposed development can be assessed under the following headings:

1. Compliance with National Guidelines & Standards, the County Development Plan & General Development Standards
2. Planning History
3. Roads & Traffic
4. Water Services
5. Condition 8 Issues
6. Appropriate Assessment

### 7.1. Compliance with National Guidelines & Standards, the County Development Plan & General Development Standards:

Sustainable Residential Development in Urban Areas (DoEHLG, 2008)

- 7.1.1. The subject site is located within a built up area of Cork County Council adjacent to Cork City and on lands zoned for residential purposes in the most recent Local Area Plan. The site can connect to public services and as such the principle of development at this location is considered acceptable and in compliance with the general thrust of national guidelines and strategies. The 2008 guidelines updated the Residential Density Guidelines for Planning Authorities (1999), and continue to support the principles of higher densities on appropriate sites in towns and cities and in this regard, I consider that it is reasonable to support the development potential of the subject site in accordance with said guidelines. The development originally proposed the construction of 73 dwelling units on a site covering approximately 2.5ha and in terms of the recommendations of the Guidelines, the density could be considered at the lower levels permissible on such zoned lands. However, given the

nature of site and its location within the context of the overall mixed use area, I have no objection to the proposed density of same. The Board will note that planning permission was granted for the construction of 67 residential units.

7.1.2. The objective of the Sustainable Residential Development in Urban Areas guidelines is to produce high quality, and crucially, sustainable developments. Section 5.6 of the guidelines provides certain safeguards with regard to such urban developments to deal with both existing and future residents the area of the proposed development. Said safeguards are detailed above in Section 5.1 of this report and I consider it reasonable to address the proposed development against same.

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

- In terms of private open space, the Board will note that proposed development layout, as permitted, provides for rear gardens generally having a depth of +10m. I would consider that the private open space provision is adequate but have concerns in terms of the quality of north facing gardens. The row of houses to the south of the site comprise a variety of house types, all of which are between 9.2m and 9.3m in height. The rear gardens for these houses range in depths of between 10-12m and range in area of between 54m<sup>2</sup> and 82.5m<sup>2</sup> approximately. In terms of the permitted 6 blocks of duplex / apartments to the north of the site, I would not consider the layout as proposed as acceptable. The rear garden depth for the ground floor apartments extend to between 10-10.3m. These north facing gardens are located within the stated 'buffer zone' between the existing industrial development to the north and the proposed residential buildings. I would not be satisfied that the rear gardens of these proposed units adequately fulfil the requirements of a 'buffer zone' to protect residential amenities. In addition, the quality of this private open space is questionable. In the first instance, access to the rear garden is via a bedroom in the proposed apartments. Secondly, and having regard to the depth of the gardens and their north facing orientation, the quality of any daylight

reaching this proposed private open space area is seriously questionable. The height of the duplex / apartment buildings will rise to approximately 11.7m in height and will therefore, wholly overshadow the rear gardens. In addition, there is a requirement to construct a 3m high boundary wall along the boundary with the industrial development to the north. I would be concerned that the quality of this private open space is unacceptable in terms of the amenity for future residents.

- With regard to public open space, the proposal as amended and permitted, provides for three areas of open space to be located to the east and western boundaries of the proposed estate and a small narrow area which runs along the length of the southern boundary of the site. The areas provide for a neighbourhood play area and kickabout area to the west with a local play area and green area to the south. A smaller neighbourhood play area is proposed to the southern boundary. The applicant indicates that the proposed open space provides for 0.3802ha equating to 17.8% of the total site area. The County Development Plan requires 'at least 12% to 18% of a site for development, excluding areas unsuitable for house construction should be allocated to the provision of public open space.' In terms of compliance with the guidelines, and CDP, the Board will note that the CDP further provides that 'where there is a high standard of private open space and where public open space is designed to a very high quality standard a reduced minimum value of 10% may be applied'.

Access to the open space is achievable without the requirement to cross a road in relation to a large number of residential units, save for the proposed central 21 units which are surrounded by roads. Any person in these houses will have to cross a 6m wide estate road to access any of the open space areas.

- Overall, I am satisfied that the proposed open space provision is acceptable in principle. I do however, have real concerns regarding the proposed layout of the site which has not had due regard to the presence of existing mature trees on the site, many of which are proposed to be removed to accommodate the development layout

proposed. I consider that if the development is permitted in its current form and layout, it would significantly impact on the existing visual amenities of the area. The layout of the proposed development should be amended to incorporate the existing trees. In addition, the layout is roads dominated, in my opinion, and does not give due regard to the quality of the open spaces to be provided. I will discuss issues relating to compliance with the County Councils Recreation and Amenity Policy, 2006 further below in Section 7.5 of this report.

*b) Avoidance of undue adverse impact on the amenities of existing or future adjoining neighbours;*

- The subject site is zoned for residential development and as such, the principle of the development is considered acceptable. I have discussed my concerns in relation to the quality of the proposed private open space associated with the proposed apartments and I would have serious concerns in this regard for the residential amenities of future residents of the development. In addition, there is a real concern in relation to the potential impact the development will have on the existing adjacent uses which include permitted light industrial uses. While I note the significant residential use of the wider area, adjoining businesses have raised concerns in terms of potential future operational issues arising which may impact on future residents of the proposed development. I agree that it is important to have potential issues addressed before a grant of permission issues.
- The Board will note that the Local Authority sought amendments to the site layout to increase the separation distances between the residential units and the adjoining industrial uses. I would not consider that the very minor amendments presented by the applicant to be adequate and I would agree with the third parties that the existing businesses in the immediate vicinity are entitled to reasonable expectation to continue operations in the long term. Issues arising in terms of potential conflicts with neighbours include roads and traffic issues, which will be addressed further below, as well as the potential for existing uses to affect the residential amenities of future residents.

c) *Good internal space standards of development;*

The proposed development provides for three different duplex / apartment block types, all of which are essentially identical save for one apartment and duplex in block 13. Compliance with the guideline standards are presented as follows:

Ground floor two bedroom apartments:

	Proposed	Guidelines
<b>Overall floor area</b>		
Blocks 11 & 12	80m <sup>2</sup>	75m <sup>2</sup>
Block 13 – 1 apartment	83.3m <sup>2</sup>	
<b>Double bedroom area</b>		
Blocks 11 & 12	11.4m <sup>2</sup> & 13m <sup>2</sup>	11.4m <sup>2</sup>
Block 13 – 1 apartment		
<b>Living room area</b>		
Blocks 11 & 12	16.35m <sup>2</sup> + 6m <sup>2</sup> dining area + 10.5m <sup>2</sup> kitchen Total living area 32.8m <sup>2</sup>	30m <sup>2</sup>
Block 13 – 1 apartment	Total living area including kitchen / dining / living 36m <sup>2</sup>	
<b>Living room width</b>		
Blocks 11 & 12	4.67m	3.6m
Block 13 – 1 apartment	3.8m	
<b>Storage area</b>		
Blocks 11 & 12	4.3m <sup>2</sup> + 2.7m <sup>2</sup> utility	6m <sup>2</sup>



Block 13 – 1 apartment	2.17m <sup>2</sup> + 2.6m <sup>2</sup> utility	
------------------------	---	--

In terms of above, the following is relevant:

- The Design Standards for New Apartments require ‘that general storage should be additional to kitchen presses and bedroom furniture, but may be partly provided in these rooms’. If the proposed utility rooms are considered to comprise kitchen storage, then the proposed storage provision for the purposes of the standards, is 4.3m<sup>2</sup>, and well below the recommended minimum area. The proposed storage provision in Block 13 is below the minimum area.
- The width of the living rooms includes the entrance to the apartments.
- A dining area is proposed within the open plan living / dining area, and the kitchen is detached from this open space. The combined living / dining area is 22.35m<sup>2</sup> and is below the 30m<sup>2</sup> guideline standard.
- The width of the bedrooms is +2.8m which is in accordance with the minimum standard. The floor area of bedroom 2 includes the 1.21m<sup>2</sup> door area, with the main floor area of the room having an area of 10.26m<sup>2</sup>.
- Access to the private north facing rear garden is via Bedroom no. 1.

Duplex three bedroom apartments:

There is no difference in the floor areas of the duplex apartments throughout the proposed 6 blocks of duplex / apartments.

	Proposed	Guidelines
Overall floor area	103m <sup>2</sup>	90m <sup>2</sup>
Double bedroom area	13.1m <sup>2</sup> & 11.9m <sup>2</sup>	11.4m <sup>2</sup>
Single bedroom area	7.58m <sup>2</sup>	7.1m <sup>2</sup>
Living / kitchen area	15.88m <sup>2</sup> Living 17.05m <sup>2</sup> Kitchen Total area 32.93m <sup>2</sup>	34m <sup>2</sup>

Living room width	3.85m	3.8m
Storage area	0m <sup>2</sup>	9m <sup>2</sup>

In terms of above, the following is relevant:

- The overall design of these duplex apartments provide for a separate kitchen / diner, with a floor area of approximately 17.05m<sup>2</sup> and living room with a floor area of approximately 15.88m<sup>2</sup>. I calculate the total living / kitchen area at 32.93m<sup>2</sup>, which is below the guideline standard.
- There is no storage proposed for the duplex apartments.
- The duplex apartments are to be provided with south facing balconies off the proposed living rooms with an area of 9m<sup>2</sup>.

Overall, I have concerns regarding the proposed apartments and duplex apartments. They do not meet the guideline standards in relation to a number of areas and I have already addressed my concerns in terms of the quality of the private open space for the apartments above. The proximity of the blocks to the adjoining industrial park is also a concern.

d) *Conformity with any vision of the urban form of the town or city as expressed in development plans, particularly in relation to height or massing;*

Given the nature and scale of the proposed development, I am satisfied that the development might reasonably be considered as being acceptable in principle, given the zoning afforded to the subject site. That said, the existing uses in the immediate area and vicinity of the subject site is primarily industrial and commercial, with residential to the east, beyond Sarsfield Road and west, beyond the Mainline business. While I have no objection in principle to the development of residential development on this site, I consider that the proposal before the Board gives rise to a number of issues and concerns, particularly in terms of the quality of open space provision, general site layout and internal spaces of the apartments.

- e) *Recognition of the desirability of preserving protected buildings and their settings and of preserving or enhancing the character or appearance of an Architectural Conservation Area;*

Not relevant in this instance as there is no protected structure or Architectural Conservation Area in proximity to the subject site.

- f) *Compliance with plot ratio and site coverage standards adopted in development plans.*

The Cork County Development Plan provides guidance in terms of site coverage and density and having regard to the nature of the subject site, I am satisfied that the proposed development is acceptable in my opinion, in terms of site coverage and plot ratio.

7.1.3. It is acknowledged that national guidelines encourage the provision of higher density development within urban areas in order to use serviced lands in a sustainable manner, but regard has to be given to the existing nature of development in the vicinity of the subject site as well as the nature and scale of the surround area and existing residential estates. The development proposes 69 residential units – 67 permitted - in the form of 2 bedroomed apartments, 3 bedroomed duplex apartments and 3/4 bedroomed semi-detached and terraced houses.

7.1.4. Having regard to the above, and acknowledging that the current Local Area Plan for the area zones the lands for residential development, I consider that the principle of the proposed development is acceptable, given the location of the subject site in proximity to Cork City and in close proximity to public transport links. The quality of the homes proposed however, including the open spaces and layout of the estate, should meet all required standards and the proposed land use should be compatible with existing adjacent uses.

## 7.2. **Planning History**

7.2.1. The Board will note the planning history associated with the subject site, all of which provided for retail warehousing / storage, petrol filling station and shop, and office uses. The most recent permission associated with the site, and still valid, is ABP ref PL04.242829 (PA ref 13/5437) where permission was granted to O'Brien and O'Flynn for the construction of 2 no. office blocks (Block A & B) with car parking at

ground and basement level, vehicular access on to Eagle Valley road, footpaths, lighting, signage, landscaping and amenity areas, and all associated ancillary development works.

- 7.2.2. The current proposed development clearly differs significantly from the permitted schemes and the zoning of the site has changed since permission for the commercial and office uses were granted. I am satisfied that the principle of the proposed residential development is acceptable at this location, but I do have reservations regarding the proposed layout and nature of the development and the implications for the visual amenity of the area through the extensive removal of existing trees and vegetation, the general residential amenity for future residents and the fact that a number of the residential units fail to comply with minimum standards in terms of internal space, storage and private open spaces, the impact of the proposed estate road and the implications for conflict between existing uses in the vicinity of the site and the proposed residential use of the site, given the proposed layout.

### **7.3. Roads & Traffic:**

- 7.3.1. Access to the subject site is proposed over the existing and permitted road network in the vicinity, Sarsfield Road, onto the Eagle Hall Road and then along the existing access road currently serving Mainline. The existing road to the front of Mainline is a cul-de-sac and stops in line with the northern boundary of the commercial site. The Eagle Valley Road provides access to the wider residential developments of the area to the west of the site as well as the church and funeral home to the south of the site. The Board will note that a primary concern of third parties relates to roads and traffic issues. It is submitted that the existing road network is incapable of accommodating the level of traffic the development, if permitted would generate. It is also noted that there appears to be an existing issue with parking associated with existing residential developments and during funerals.

- 7.3.2. In terms of the design of the proposed development, including the entrance and access to the site, it is a requirement that they be considered against the Design Manual for Urban Roads and Streets (DMURS), DoTTS, March 2013. This Manual replaces DMRB in respect of all urban roads and streets and it does not differentiate between public and private urban streets, where a 60kph speed limit or less applies.

The DMURS provides radically new design principles and standards from DMRB. The implementation of DMURS is obligatory and divergence from same requires written consent from relevant sanctioning authority (NRA, NTA or DTT&S) and is applicable in the case at hand. The Manual seeks to address street design within urban areas (i.e. cities, towns and villages). It sets out an integrated design approach. What this means is that the design must be:

- a) Influenced by the type of place in which the street is located, and
- b) Balance the needs of all users.

7.3.3. DMURS sets out a road user priority hierarchy as follows:

- 1 Pedestrians;
- 2 cyclists
- 3 public transport
- 4 car user.

The key design principles for roads include –

- Integrated streets to promote higher permeability & legibility;
- Multi-functional, placed-based, self-regulations streets for needs of all users;
- Measuring of street quality on the basis of quality of the pedestrian environment
- Plan-led, multidisciplinary approach to design.
- The importance of this design approach is dependent on site context, but also on road type - local, arterial or link. The DMURS defines a hierarchy of places based on place-context and place-value, with centres (such as town and district centres) having highest place-value. Places with higher context / place-value require:
  - Greater levels of connectivity;
  - Higher quality design solutions that highlight place;
  - Catering for and promotion of higher levels of pedestrian movement;

- A higher level of integration between users to calm traffic and increase ease of movement for vulnerable users.

7.3.4. DMURS provides detailed standards for appropriate road widths - 2.5m to 3m per lane on local streets and a 3.25m standard for arterial and link route lanes, junction geometry - greatly restricted corner radii to slow traffic speed and improve ease of pedestrian crossing, junction design - omit left turn slips and staggered crossings etc., and requires that roads are not up designed above their speed limit. In terms of the above requirements of DMURS, the applicant has sought to design the internal roads of the proposed estate to ensure compliance and to a design speed of 20km/ph. In addition, pedestrian crossings have been provided, although I do consider that the design standards have not been fully applied with particular regard to the priority hierarchy. In particular, the Board will note that in order to access the public open space area, pedestrians from the houses within the central area will have to navigate crossing the estate road.

7.3.5. In terms of parking, the Board will note that the Planning Authority considered that there is a deficit of 18 spaces to serve the apartments and duplex units. This shortfall comes about due to the applicant considering the duplex units as apartments, requiring 1.25 spaces per unit, as opposed to a house, which requires 2 spaces per unit. Condition 3(c) of the grant of permission requires that additional parking spaces be provided. Appendix D of the County Development Plan provides for parking and cycling standards. The notes attached to table 1a provides for circumstances where the minimum standard can be exceeded and having regard to the existing traffic and parking issues in the vicinity of the site, I am satisfied that the car parking provision is inadequate as proposed. I would concur with the Planning Authority that additional spaces are required to service the development, and should the Board be minded to grant permission in this instance, an appropriate condition should be included to this effect.

7.3.6. In terms of the construction phase of the proposed development, I accept that there will be some impacts to existing road users. However, I am satisfied that these impacts are generally temporary in nature. The Board will note that the zoning of the subject site, affords potential for a residential development. In terms of general roads and traffic issues, and acknowledging the third party submissions in this regard, I am satisfied, based on the information submitted to date, the details of the reports of the

City Councils roads engineers, the requirements of the Design Manual for Urban Roads and Streets, the existing residential developments in the area and the potential impact of the proposed development and the traffic generated by same on the local road network, that the proposed development would not result in a significant traffic hazard for existing residents in the area, would not contribute significantly to traffic congestion within the local road network and would not adversely affect the existing residential amenities of the wider Eagle Valley area and the carrying capacity of either the Eagle Valley Road or Sarsfield Road by reason of the additional traffic resulting from the proposed development.

#### 7.4. **Water Services**

The proposed development will connect to existing services which serve the wider area. The public system appears to have adequate capacity to accommodate the proposed development and Irish Water has indicated no objections on these grounds.

#### 7.5. **Condition 8 Issues:**

7.5.1. Condition 8 relates to the payment of a Special Development Contribution 'in respect of works proposed to be carried out, for the provision of local amenities and facilities including the provision of a walkway under policy SEU-01.' The amount of the special development contribution is €92,000 which appears to have been calculated on the basis of a shortfall in the provision of 5 recreation and amenity points, at a rate of €18,400 per point, to comply with the Councils Recreation and Amenity Policy. The Cork County Council General Development Contribution Scheme provides for the levying of a Special Development Contribution in respect of **any** development where specific exceptional costs, not covered by the General Scheme are incurred by any Local Authority in respect of public infrastructure and facilities which benefit the proposed development. Section 48(2)(c) of the Planning & Development Act, 2000 as amended, 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 a scheme are incurred by any local authority in respect of public infrastructure and facilities which benefit the proposed development.'

7.5.2. Section 48(12) of the Act states that 'where payment of a special contribution is required in accordance with subsection (2) (c), the following provisions shall apply—

(a) the condition shall specify the particular works carried out, or proposed to be carried out, by any local authority to which the contribution relates,

(b) where the works in question—

(i) are not commenced within 5 years of the date of payment to the authority of the contribution (or final instalment thereof, if paid by phased payment under subsection (15)(a)),

(ii) have commenced, but have not been completed within 7 years of the date of payment to the authority of the contribution (or final instalment thereof, if paid by phased payment under subsection (15)(a)), or

(iii) where the local authority decides not to proceed with the proposed works or part thereof.

the contribution shall, subject to paragraph (c), be refunded to the applicant together with any interest that may have accrued over the period while held by the local authority,

(c) where under subparagraph (ii) or (iii) of paragraph (b), any local authority has incurred expenditure within the required period in respect of a proportion of the works proposed to be carried out, any refund shall be in proportion to those proposed works which have not been carried out.

7.5.3. The first party has submitted that the Planning Authority has failed to comply with the requirements of Section 48(2)(c) and 48(12) of the Planning and Development Act, 2000, as amended, in that it has not clearly identified the 'specific' or 'exceptional' costs which the Local Authority will incur in respect of public infrastructure and facilities benefitting the proposed development. In addition, Paragraph 7.12 of the 'Development Management, Guidelines for Planning Authorities, 2007' is relevant and states as follows:

"special contribution requirements in respect of a particular development may be imposed under section 48(2)(c) of the Planning Act where specific exceptional costs not covered by a scheme are incurred by a local authority in



the provision of public infrastructure and facilities which benefit the proposed development. A condition requiring a special contribution must be amenable to implementation under the terms of Section 48(12) of the Planning Act; therefore it is essential that the basis for the calculation of the contribution should be explained in the planning decision. This means that it will be necessary to identify the nature/scope of works, the expenditure involved and the basis of the calculation, including how it is apportioned to the particular development”.

7.5.4. The purpose of the special development contribution, as advised, is requested as it is considered that there is a shortfall in recreation and amenity points. The Councils Recreation and Amenity Policy, 2006, at appendix A, provides details of the requirements for new housing developments. The policy requires the provision of 1 point per 6 residential units. As permission was granted for 67 units, the requirement is for 11 points. The development proposed the following amenities:

- 2 neighbourhood play areas,
- 1 local play area and
- a kickabout or grassed area covering 400m<sup>2</sup>.

The Council has calculated that this provision equates to a deficit of 5 recreation and amenity points and the figure of €92,000 equates to €18,400 per point. It is submitted by the first party, that the kickabout area will have an area of 950m<sup>2</sup> and as such, the permitted layout will equate to 10 points based on the Recreation and Amenity Policy, which is 100% of the total requirement. I would not concur with the first party assessment, and it would appear that there is a deficit. However, I would question the scale of the deficit considered.

7.5.5. In addition, the Board will note condition 7 of the Planning Authority's grant of planning permission which requires that the following be provided to meet the requirements of Cork County Councils Recreation and Amenity Policy:

- 1 no. local play area in Open Space Area 2;
- 1 no. neighbourhood area play area in Open Space Area 1;
- 1 no. neighbourhood area play area in Open Space Area 3;

- 3 areas of public open space area with a total area of 4,489m<sup>2</sup>; and
- 1 area of public open space consisting of a green corridor to the east of units 44 and 45 and to the east of units 11 and 12 and to the south east corner of the site.

7.5.6. The first party submits that the inclusion of the Special Development Contribution Condition amounts to double charging in that condition 7 requires compliance with the Recreation and Amenity Policy and therefore, the development will meet 100% of the policy requirement. It is further submitted that the General Development Contribution Scheme includes a levy for recreation and amenity facilities. Having reviewed the submitted information, I would tend to concur with the applicant that the special development contribution could at least be perceived as 'double-charging' for the provision of recreational and amenity facilities. Appendix 'A' of the Recreational and Amenity Policy is clear that a minimum of 30% of the points requirement is to be satisfied through the provision of on-site facilities whereas the remainder could be met by the provision of facilities either on-site or off-site at an agreed location. It would appear that the option of a 'cash equivalent' towards any shortfall in the points allocation is intended to be the exception rather than the rule. Having regard to the information presented, at least 50% of the requirement is presented on the plans and particulars, with 100% to be provided through compliance with condition 7 of the grant of permission.

7.5.7. I would also consider that the projects to be covered by the special contribution, being 'the provision of local amenities and facilities including provision of a walkway under policy objective SE U-01' are not specific to the proposed development and would be likely to benefit the wider community. I would also suggest that these projects are likely to be pursued whether the subject development was to proceed or not. Therefore, on the basis of the foregoing, I consider that the special development contribution as imposed does not comply with the requirements of Section 48(2)(c) of the Act and should the Board be minded to grant permission, the condition should be omitted.

## 7.6. Appropriate Assessment

7.6.1. The closest European Sites are the Cork Harbour SPA (site code 004030) approximately 5km to the east of the site, and the Great Island Chanel cSAC (site code 001058), approximately 12km to the east. The applicant has submitted an AA screening report which concludes that there would be no risk of significant negative effects on any European Site as a result of the proposed development, either alone or in combination with other plans or projects. The planning report on file concludes that appropriate assessment is not required.

7.6.2. Overall, I consider it is reasonable to conclude on the basis of the information available that the proposal individually or in combination with other plans or projects, would not adversely affect the integrity of a Natura 2000 site having regard to the nature and scale of the proposed development and separation distances involved to adjoining Natura 2000 sites. It is also not considered that the development would be likely to have a significant effect individually or in combination with other plans or projects on a European Site.

## 8.0 Recommendation

I recommend that planning permission be **Refused** for the proposed development for the following stated reason.

## 9.0 Reasons and Considerations

Notwithstanding the zoning of the subject site, and the general desirability of promoting increased residential densities, as provided for in the current Development Plan for the area, and having regard to the pattern of development in the vicinity and the planning history of the site, it is considered that the proposed development, by reason of its layout, scale and design, would:-

- result in the extensive loss of existing mature and early mature, healthy trees and natural vegetation which contribute to the visual amenity of the area;
- conflict with the provisions of the current Development Plan for the area and with the minimum standards provided for in the "Sustainable Residential Development in Urban Areas: Guidelines for Planning Authorities" published

by the Department of the Environment, Heritage and Local Government in December, 2008, including the mandatory Specific Planning Policy Requirements in the Updated Apartment Guidelines 2015, under the Planning and Development (Amendment) Act 2015;

- result in an inadequate quality of usable private open space to serve the proposed development, and in particular the proposed apartments by reason of orientation, scale and height of the buildings and the proximity of light industrial units to the north;
- give rise to substandard residential amenity for future occupiers.

The proposed development would accordingly fail to provide an appropriate design response to the context of this site, would adversely impact on the visual amenities of the area, and would constitute a substandard form of development that would seriously injure the general amenities of the area, including the residential amenities of future occupants and would impact on the continued industrial and commercial operations of adjacent businesses. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

---

A. Considine

Planning Inspector

11<sup>th</sup> December, 2017