



An
Bord
Pleanála

Inspector's Report PL28.249264

Development	Residential development of 204 units and all associated landscaping external works and boundary works at Former Nemo Rangers GAA Ground, South Douglas Road and Former
Location	Former Nemo Rangers GAA Ground & former FCA premises at Douglas Road
Planning Authority	Cork City Council
Planning Authority Reg. Ref.	16/37053
Applicant(s)	Dildar Ltd
Type of Application	Permission
Planning Authority Decision	Grant subject to conditions
Type of Appeal	Third Party x 6
Appellant(s)	1) Justin McCarthy 2) Roy and Glenna Casey 3) Michael and Gillian O'Shea 4) Brian Lynch on Behalf of Eldred Terrace Residents

	5) Bryan Treacy
	6) D Lynch & M Cosgrove on Behalf of 3, 4 and 5 Beechwood Place
Observer(s)	1) Gerard & Elizabeth O'Sullivan
	2) Eoin & Helen Connolly
	3) Colin Murray
	4) Maureen Twomey
Date of Site Inspection	15 th January 2018
Inspector	Mary Crowley

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1.0 Site Location and Description

- 1.1. The appeal site with a stated area of 2.76 ha is located in Douglas, an inner suburban part of Cork City approximately 2km south-west of the city centre. The site is situated at the former Nemo Rangers GAA ground at South Douglas Road and the former FCA premises at Douglas Road. The site also includes No 7 Eldred Terrace, a two storey plus attic end of terrace dwelling included on the NIAH. There is existing access from Douglas Road and South Douglas road.
- 1.2. Adjoining the site along Douglas Road are terraced residential dwellings from the late 19th and early 20th centuries, many within the Douglas Road – Northwest Architectural Conservation Area (including No 7 Eldred Terrace) and a detached two storey former dwelling used as a dental clinic and physiotherapy / sports injury clinic. The north western boundary of the site adjoins a laneway located to the rear of Beechwood Place and Pinewood which access the Pairc Colmcille sports grounds and also provides access and off street parking to Beechwood Place and Pinewood. Pairc Colmcille adjoins the site to the west.
- 1.3. The southern boundary of the “wider” northern portion of the site adjoins Park Avenue, a four storey apartment development constructed in the late 2000’s. The eastern site boundary adjoins the rear gardens of houses along Cross Douglas Road. The southern and narrower part of the site adjoins Glenview and a small access road off South Douglas Road serving a number of detached dwellings adjoining the Park Avenue apartment development.
- 1.4. The boundaries are formed by a variety of fences, walls and hedgerows. A section of land located between the northern eastern boundary and the carriageway of Douglas Road is used as unregulated perpendicular parking for c 12 cars. The junction of the Douglas Road and the Cross Douglas Road is c.50m west of the northern site boundary. The junction of the Douglas Road and the Bellair Estate is c.75m to the east. Both junctions are controlled by traffic lights.
- 1.5. A set of photographs of the site and its environs taken during the course of my site inspection is attached. I would also refer the Board to the photos available to view throughout the appeal file together with the sites photos taken by the two previous planning inspectors that considered appeals at this location (PL28.219498 and PL28.230780 refer).

2.0 Proposed Development

2.1. The application submitted to Cork City Council on **2nd September 2016** comprised the following:

- 50 no. two and three detached, semi-detached and terraced houses. Alterations and single storey rear extension to No 7 Eldred Terrace which is in an Architectural Conservation Area. The housing unit element of the scheme comprises 8 2-bed houses, 8 3-bed houses and 35 4-bed houses.
- 153 no one, two and three bedroom apartments in 5 and 6 storey blocks over two no levels of basement car parking. The apartment element t comprises 46 1-bed units, 46 2-bed units and 61 3-bed units.
- 3 storey mixed use building of 437 sqm containing a crèche of 259sqm and 178sqm commercial unit for use as a private gym
- 1 no ESB transformer substation
- Single storey bin store of 68 sqm
- 370 no total car parking spaces
- New vehicle and pedestrian entrance onto Douglas Road and new pedestrian access from Glenview Terrace, South Douglas Road
- New connection to existing public sewer on Douglas Road and South Douglas Road
- All associated landscaping, external works and boundary works
- A five-phase construction phase is proposed

2.2. The application was accompanied by the following:

- Design Report
- Services / Infrastructure Report
- Part V Proposals
- Traffic & Transportation Assessment
- Landscape Design Report
- Photomontages & CGIs
- Public Lighting Report

2.3. In response to a request for **further information** on the 27th October 2017 the applicant submitted the following on **20th January 2017** as summarised:

- Legal Interest - submitted that the matter was dealt with in detail by the previous planning inspector PL28.230780 refers
- Site Boundary – revised site plan to clarify site boundary
- Access to Laneway – previous access gate has been removed and no access not proposed
- Crèche Turning & Set Down Area – revised plan indicating a hammerhead turning area and set down for two cars
- Phasing – revised phasing proposal including time phases for each phase, taking into account delivery of Part V, construction traffic management as earlier phases of the development re populated.
- Car Parking – the original application made provision for a total of 373 parking spaces. 12 no of which were to be assigned for use by residents of Eldred Terrace. This has been reduced to 360 (338 + 22). Stated that 338 spaces are associated directly with the site and is below the maximum provision as set out in the Development Plan
- Overshadowing & Overlooking – Houses 30-35 have been redesigned to avoid potential overshadowing and overlooking concerns. In addition House 03 and 04 have also been redesigned in response to concerns raised by the occupants of neighbouring dwellings on Cross Douglas Road.
- House 09 – omitted as requested and area proposed to provide 10 number additional car parking spaces, which along with 2 no spaces opposite are intended for use by the residents of Eldred Terrace.
- Daylight & Sunlight / Shadow Study – submitted that during the Daylight Study determined it beneficial to reconfigure the south facing apartments by extending the living spaces to the outer external wall
- Gym Windows – obscured glazing shown to the large second floor window serving the gym

2.4. The submission was accompanied by the following:

- 1) Report from Barry & Partners, Consulting Engineers together with revised Traffic & Transport Assessment (TTA), detailed watermain layout, redesigned

fully signalised junction with Douglas Road for all traffic movements including pedestrians, details of TRICS database, TRANSYT model of the proposed signalised junction, changes in traffic and pedestrian volumes are shown in absolute terms, analysis of current and future pedestrian movements, Stage 1/2 Road Safety Audit and drawing showing safe walking routes to and from the proposed development.

- Stated that the proposed design does not rely on long term plans by Cork City Council to provide a footpath along the front of Eldred Terrace *but the design does not accommodate such a footpath if / when it is provided.*
- The revised signalised junction design includes for a pedestrian stage across all arms of the proposed junction.
- Confirmed that the number of proposed car parking spaces does not exceed the maximum standards set down in the Development Plan.
- Stated that the traffic movements associated with such approvals will not impact on traffic movements in the area.

2) Peer Review of Barry & Partners Traffic and Transportation Assessment prepared by Atkins (December 2016)

3) Report from Brady Shipman Martin providing revised boundary proposals for the eastern and south western boundaries allowing for the protection and retention of the established indigenous hedgerows in these locations. Stated that the *provision of a 2m high post and timber panel fence is the best boundary solution to replace the chain link fence* as it will minimise disturbance and create an attractive and solid boundary. Revised proposal for the bin storage area including screening and external materials.

4) Daylight Study Report

5) Floor Area Schedule

2.5. In response to a request from Cork City Council on 24th January 2017 **revised public notices** were submitted on **1st February 2017** indicating that significant further information / revised plans had been furnished to the planning authority.

2.6. Following a formal request from the applicant an **extension of time** was granted to 27th July 2017.

2.7. In response to a request for **clarification of further information** on 27th February 2017 the applicant submitted the following as summarised on **26th July 2017**:

- Revision to House Design to House Type A1, A2, A5 and A6
- Revised site plan showing minor revisions to the site layout to the rear of Eldred Terrace
- Noise Impact Report for the proposed ESB transformer substation
- Public lighting calculation at the proposed junction
- Letter from Michael Powell Solicitors stating that they act on behalf of the Newenham Estate who own the land between the north eastern red line site boundary and the Douglas Road and that they consent to the land being included on this planning application

3.0 **Planning Authority Decision**

3.1. **Decision**

3.1.1. Cork City Council issued notification of decision to grant permission subject to 38 conditions. Conditions of note may be summarised as follows:

Condition No 1 – Development shall be carried out in accordance with the plans and particulars received by the planning authority on 2nd September 2016, as amended by the plans and particulars received by the planning authority on 20th January 2017, 1st February 2017 and 26th July 2017.

Condition No 5 – Prior to commencement the applicant shall submit the following for written agreement (a) Revised drawings indicating the omission of the sliding glazed doors at first floor levels serving “Bed 2” in the rear elevation of all Type A1 and A2 dwellings and their replacement with a window. (b) The flat roof over part of the kitchen in the rear elevation of all Type A1 and A2 dwellings shall not be used as a balcony or roof garden and shall not be accessible. (c) All flank windows at first and second floor level in all Type A1 and A2 dwellings shall be finished in obscured or frosted glazing. (d) The first floor windows in the south eastern elevation serving bathroom and stairs of the Feature House / House 02 shall be finished in obscured or

frosted glazing. (e) The vehicle entrance to the Feature House / House 02 shall be omitted.

Condition No 6 – Specifications, method statement and schedules of works for the reconstruction of the realigned front wall serving No 7 Eldred Terrace. Design and detail of new timber sash windows shall be submitted for written agreement.

Condition No 7 – In the event that the proposed parking areas are not taken in charge by the Local Authority / Roads Authority permanent public access shall be provided to a minimum of 10 number parking spaces within the development being parking spaces labelled “EI Tce 017” to “EI Tce 026” inclusive indicated on drawing 1510001-PL-02 received by the planning authority on 26/07/2017. In the interest of the protection of the architectural heritage of the area.

Condition No 14 – Developer shall lodge a bond with the Planning Authority to secure provision and satisfactory completion and maintenance until taken in charge by Cork City Council of sewers, watermains, roads, footpaths and public lighting.

Condition No 15 – Applicant shall agree in writing full details of a legally incorporated management company which shall be responsible for the future maintenance and upkeep of all services associated with the apartment blocks of this development including drains, sewers, watermains, public lighting, paths, open spaces and refuse storage areas.

Condition No 20 – All findings of the Stage 1/2 Road Safety Audit shall be incorporated into the development and paid for in full by the applicant. Stage 3/4 Road Safety Audit shall be undertaken, closed out, signed off and acted upon. All cost associated with this condition shall be borne by the applicant.

Condition No 38 – Development Contribution in the amount of €1,716,189.22

3.2. Planning Authority Reports

3.2.1. Planning Reports

3.2.2. The **Case Planner** in their first report of **26th October 2016** recommended that the following further information be sought as summarised. Further information was requested on **27th October 2017**.

- Sufficient legal interest to traverse the area of land currently in use as car parking at Douglas Road, clarify the development boundary and sufficient legal interest to access the existing laneway to the rear of dwellings along Cross Douglas Road
- Detailed water main layout
- Revised Traffic & Transport Assessment (TTA) showing fully signalised junction with Douglas Road and associated modelling, details of TRICS database, analysis of current and future pedestrian movements and confirmation that all traffic associated with existing planning approvals, including Part 8's in the area have been included in the TTA
- Public lighting proposals
- Submit a Stage 1/2 Road Safety Audit with findings incorporated into the development
- Proposals for safe walking routes to and from schools, bus stops and local shops
- Revised internal layout providing a turning area and set down area at the crèche, details for provision of a footpath along the front of Eldred Terrace, details of proposed phasing and car parking requirements do not exceed maximum standards set out in the Development Plan
- Revised plans omitting House 30 and Houses 31 to 35 and replacement with two storey dwellings to avoid undue overshadowing, omission of House 09 and replacement with surface car parking, daylight / sunlight study, revised site plan for the "feature house", large second floor window serving the gym in the northern elevation shall be omitted or finished in obscure glazing, revised boundary treatment for the eastern and south western boundary and revised bin storage area
- Details of the proposed ESB transformer substation with respect to noise impact

- Accurate schedule of gross floor area for all proposed buildings and dwellings, including basement areas
- 3.2.3. The Case Planner in their second report of **27th February 2017** and having considered the further information submitted recommended that the following further clarification of further information be sought as summarised. Clarification of further information was requested on 27th February 2017.
- Applicant to demonstrate sufficient legal interest to traverse the lands immediately between the north eastern red line site boundary and the Douglas Road (an area of land currently in use as car parking).
 - Clarification of response to Item 8(a) and 9 as the responses do not appear to have been included in the further information submission
- 3.2.4. The **Case Planner** in their third report of **21st August 2017** and having considered the clarification of further information submitted recommended that permission be granted subject to conditions. The notification of decision to grant permission issued by Cork City Council reflects this recommendation.
- 3.2.5. **Other Technical Reports**
- 3.2.6. The **Conservation Officer** in their report of 3rd October 2016 does not consider that the new development on ground to the south, behind the rear access lane, will have a negative impact on the Architectural Character Area. There is no objection in principle to the proposed works to No 7 Eldred Terrace subject to installation of new timber sash windows, modelled on the surviving original timber window at ground floor on the front elevation. Wording of Condition provided.
- 3.2.7. The **Drainage Report** of 11th October 2016 has no objection to the scheme subject to conditions as set out in the report.
- 3.2.8. The **Environment Report** (John Walsh, Environment Waste Management & Control) of 14th October 2016 has no objection to the scheme subject to conditions as set out in the report.
- 3.2.9. The **Environment Report** (Liam Casey, Environment Waste Management & Control) of 21st October 2016 requested further information in relation to retention of hedgerows and alternative boundary treatment proposals and provision of an iconic folly like structure to serve as both a parkland feature and bin storage area.

Environment (Liam Casey, Environment Waste Management & Control) in their report of 20th February 2017 stated that the further information submitted including the landscape proposals were satisfactory and that they had no objection to the grant of permission.

3.2.10. **Environment** (Tony O'Sullivan) in their report of 17th August 2017 and having considered the clarification of further information has no objection to the scheme subject to conditions set out in their report relating to noise.

3.2.11. The **Road Design Report** (Strategic Planning & Economic Development) of 18th October 2016 in consultation with Cork City Council Road Design & Transport & Mobility Sections requested further information in relation to the provision of a signalised junction accessing the development, car parking provision, footpath provision along the front of Eldred Terrace, turning area and set down area at crèche, confirmation of floor areas, construction traffic and phasing plan. Road Design (Planning) (Strategic Planning & Economic Development) in their report of 16th February 2017 and having considered the further information had no stated objection to the scheme subject to conditions as set out in their report. Road Design (Planning) (Strategic Planning & Economic Development) in their report of 4th August 2017 and having considered the clarification of further information states that all conditions on their report of 16th February 2017 still apply together with an updated development contribution.

3.2.12. The **Transport & Mobility Report** of 25th October 2016 requested further information in relation to a revised TTA, consents to the removal of the existing roadside parking, public lighting, Stage 1/2 Road Safety Audit, safe walking routes and phasing. Transport & Mobility in their report of 17th February 2017 and having considered the further information concurred with the assessment, recommendations and conditions of the Road Design (Planning) report dated 16th February 2017 and recommended that permission be granted subject to conditions as set out in their report.

3.2.13. The **Water Section** in their report of 23rd February 2017 state that they are happy with the further information submitted and that *any further alteration can be picked up when the applicants engineer makes pre connection enquiry to Irish Water.*

3.3. Prescribed Bodies

- 3.3.1. **Irish Water** in their report of 14th October 2016 state that the drawings and specifications provided does not provide IW with sufficient data to make a determinations on the development. Irish Water in their report of 25th February 2017 have no stated objection to the scheme.

3.4. Third Party Observations

- 3.4.1. There are several observations recorded on the planning file from (1) Teresa O'Brien, 19 Willow Court, (2) Cllr Kieran McCarthy, (3) Mona Creedon, No 2 Beechwood Place, (4) Michael Cronin, Park House, Knockrea Park, (5) Justin McCarthy, No 1 Pinewood, (6) Maria & Michael Lynch, Glenbury, Loreto Park, (7) Maureen Twomey, La Salette, (8) Gerard & Elizabeth O'Sullivan, Brackendale, (9) Deirdre Murphy, 4 Fernwood, (10) Dr Joel Walmsley, 18 Willow Court, (11) Roy & Glenna Casey, Gardenhurst, (12) John & Patricia Greene, Branson Lodge, (13) Patrick Kearney, Dunrovin, (14) Philip & Geraldine Mulcahy, St Josephs, (15) Brendan O'Donoghue, Bellevue, (16) Richard & Anne Peard, Thornleigh, (17) Patrick Leader, 20 Bellair, (18) John & Anita Manning, Waltonmere, (19) Colin Murray, Braemar, (20) Katherine Burke, 3 Fernwood, (21) David & Kate Sweeney, 4 Beechwood Place, (22) Noel & Sile Morgan, Sherwood, (23) Eoin & Helen Connolly, Glenthorne, (24) Shane O'Neill, Columbine, (25) Doireann Lynch & Mark Cosgrove, 3 Beechwood Place, (26) Maureen Twomey, Brendan Donoghue and Siobhan Sheehan, Cross Douglas Road, (27) Byron Treacy, 1 Beechwood Place, (28) Mark Cosgrove & Others (c 50 signatories), 11 Wallace Avenue, (29) Liam & Maura Manley, Westcourt, (30) Felim & Rachel Connolly, St Josephs, (31) Eldred Terrace Residents (6 no signatories) (32) Michael & Gillian O'Shea, Glenbrae, (33) Catherine Gleeson, 4 Pinewood, (35) Paul Walsh, Edenvale, (36) Arthur Sobey, 5 Beechwood Place and (37) Bill Hanley, 1 Eldred Terrace.
- 3.4.2. Issues raised relate to overlooking, overshadowing, scale of development, road safety, traffic congestion, road access and traffic impact, entrance to the site is unsuitable, loss of residential amenity, height, bulk, mass and scale, loss of light, loss of privacy, density, previous permitted scheme more appropriate, diminution of property values, contrary to the City Development Plan, Sustainable Residential

Development in Urban Areas, and DMURS, unsuitable boundary treatment, lighting, drainage and surface water concerns, location of electrical transformer, further restricted parking in the area, loss of trees, loss of car parking on Eldred Terrace, inadequate green belt recreational area, inadequate footpath provision, legal interest, impact to Architectural Heritage, subsidence, inadequate car parking provision and impact of proposed crèche & gym.

3.4.3. In response to the submission of further information there are several further observations recorded on the planning file from (1) Gerard & Elizabeth O'Sullivan, Brackendale, (2) Maureen Twomey, Brendan Donoghue and Siobhan Sheehan, Cross Douglas Road, (3) Justin McCarthy, No 1 Pinewood, (4) Anita Manning, Waltonmere, (5) John & Patricia Greene, Branson Lodge, (6) Noel & Sile Morgan, Sherwood, (7) Anne & Paddy Meighan, Sylvan Bank, Blackrock, (8) Byron Treacy, 1 Beechwood Place, (9) Paul Walsh, Edenvale, (10) Arthur Sobey, 5 Beechwood Place, (11) Deirdre Murphy, 4 Fernwood, (12) Colin Murray, Braemar, (13) Roy & Glenna Casey, Gardenhurst, (14) Eldred Terrace Residents Association, (15) Brian Lynch on behalf of Eldred Terrace Residents, (16) Katherine Burke, 3 Fernwood, (17) Aileen & Alan Leahy, Innisfail, (18) Philip & Geraldine Mulcahy, St Josephs, (19) Michael & Gillian O'Shea, Glenbrae, (20) Richard & Anne Peard, Thornleigh, (21) Cornelius & Veronica Lynch, 9 Glenview, (22) Doireann Lynch & Mark Cosgrove, 3 Beechwood Place, (23) Cllr Terry Shannon and (24) Maria & Michael Lynch, Glenbury, Loreto Park.

3.4.4. Issues raised are similar to those raised in the original submissions and relate to perimeter fencing, location of electrical transformer, inadequate time to consider the submission, scale and height, density, height, inaccurate traffic calculations, roadway capacity, laneway is not a public right of way, inadequate boundary treatment, large commercial building has not been reconfigured, overshadowing, loss of light, inadequate consideration of issues raised in previous submissions, entrance ownership and legal interest, traffic volume and associated impact, car parking, residential design and architectural conservation, noise and air pollution, Glenview has always been a cul de sac and should remain so, realignment of Beechwood Lane, loss of privacy, overdevelopment and that development should improve the area not be opposite.

4.0 Planning History

- 4.1. There are two previous appeals on this site that may be summarised as follows:
- 4.2. **PL28.230780** (Reg Ref 08/32906) – In August 2008 Cork City Council granted permission for a residential development of 78 no 2 and 3 storey semi-detached and terraced houses, No 28 duplex apartments, 2 No ESB transformer stations and a realignment of the exit of existing laneway to the rear of Beechwood Place subject to 17 conditions. The decision was appealed by 7 no third parties. The Board granted permission subject to 17 conditions in **March 2009**.
- 4.3. **PL28. 219498** (Reg. Ref. 06/30599) – In August 2006 Cork City Council granted permission for a residential development of 102 residential units comprising 82 no 2 and 3 storey detached and terraced houses and 20 duplex apartments subject to 19 conditions. The decision was appealed by 3 no third party appellants. The Board refused permission in **June 2007** for the following reason:
- 1) No's 6 and 7 Beechwood Place form part of an intact terrace of late 19th century houses, which are of architectural heritage value and have been identified as being of regional importance in the National Inventory of Architectural Heritage. Notwithstanding the residential zoning objective for the site and the overall good design quality of the proposed development, it is considered that the demolition of these two terraced houses would not be in accordance with the proper planning and sustainable development of the area by virtue of the architectural significance of the buildings and the impact of their demolition on both the streetscape and on the amenity and value of adjoining residential property. The proposed development would, therefore, seriously injure the amenities of property in the vicinity and be contrary to the proper planning and sustainable development of the area.*
- 4.4. **Reg Ref 03/27489** – Cork City Council granted permission for an apartment development on the adjoining site to the south comprising 70 apartments, 2 no townhouses, crèche facility, 82 basement car parking spaces, ESB substation and ancillary site works. Condition no. 2 of that permission required a 7.2m roadway to be built up to the boundary of the appeal site necessitating the omission of some of the proposed apartments. **Reg Ref 05/30181** authorised amendments to that scheme. At the time of inspection its construction was complete and occupied.

5.0 Policy Context

5.1. National Planning Policy & Guidance

5.1.1. The following is a list of Section 28 Ministerial Guidelines considered of relevance to the proposed development. Specific policies and objectives are referenced within the assessment where appropriate.

- Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (including the associated Urban Design manual) (2009)
- Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities (2015)
- Design Manual for Urban Roads and Streets
- The Planning System and Flood Risk management (including the associated technical Appendices)
- Framework and Principles for the Protection of the Archaeological Heritage
- Architectural Heritage Protection Guidelines for Planning Authorities (Revised 2011)

5.2. Development Plan

5.2.1. The operative plan for the area is the **Cork City Development Plan 2015 – 2021**. The site is zoned *ZO4 Residential, Local Services and Institutional* uses where the objective is *to protect and provide for residential uses, local services, institutional uses and civic uses and having regard to employment policies outlined in Chapter 3*. Paragraph 15.10 states that *the provision and protection of residential uses and residential amenity is a central objective of this zoning*.

5.3. Natural Heritage Designations

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

5.3.2.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. There are 6 third party appeals on file from the following:

- 1) John MacCarthy & Partner's Chartered Engineers on behalf of Justin McCarthy, No 1 Pinewood, Douglas Road, Cork. The submission was accompanied by a letter for Cohalon Downing Estate Agents & Valuers to Cork City Council together with previous submission to Cork City Council.
- 2) Darragh McAdam, Planning Appeals on behalf of Roy and Glenna Casey, Gardenhurst, Cross Douglas Road, Douglas
- 3) Michael & Gillian O'Shea, Glenbrae, Cross Douglas Road, Cork. The submission was accompanied by a map
- 4) Brian Lynch on behalf of Eldred Terrace Residents, No 3 Eldred Terrace, Douglas. The submission was accompanied by maps and a letter from Foley Turnbull Solicitors stating that the applicant has failed to demonstrate that it has any legal entitlement to traverse the lands in question namely the area of parking at the proposed access on Douglas Road.
- 5) Doireann Lynch & Mark Cosgrove on behalf of No 3, 4 and 5 Beechwood Place, Douglas.
- 6) Bryan Tracey, No 1 Beechwood Place, Douglas Road. The submission was accompanied by the original submission to Cork City Council

6.1.2. The detailed appeals may be summarised under the following general headings:

6.1.3. General Concerns

- Process – Not satisfied that any meaningful changes have been made to the proposed scheme that would militate concerns raised in submission to Cork City Council
- Assessment & Conditions – There has been no adequate assessment of the proposed development and the injurious impacts of same on residential

amenities of adjoining existing properties in the course of the planning process and no conditions have been imposed to address concerns

- Observations – The time made available to objections during the planning process was unreasonable
- Applicant / Site Owner – Two different clients (1) Messrs Land Developments and (2) Messrs Dildar Ltd are identified in various documents accompanying the application.
- Planning History – Submitted that the development as now proposed reconfigures the site access arrangement etc and creates a different environment to that originally permitted, when the impact of same on adjoining residential homes is considered
- Site Works – Submitted that the developers have already established a presence on the site, creating a site entrance and site compound at the Douglas Road end of the site.

6.1.4. **Overlooking**

- All residential properties facing on to the general Douglas Road area and in particular Beechwood Plan and Beechwood Lane, to the north of the appeal site, depend and rely on the private open space to the rear of their homes to provide residential amenities. The development of a commercial building immediately to the rear of these, which will be 3 storeys in height, extending to nearly 10m is inappropriately sited, maximising overlooking of homes and private open space and leading to a significant loss of privacy.
- Alternative solutions should be considered with appropriate separating distances and revised layout to avoid overlooking. Proposals that obscure glazing will be incorporated in the large openings in the gym building is considered to be impossible to monitor and police
- Three storey houses to the rear of No 7 Eldred Terrace will overlook and dominate the home and garden of “Glenbrae”, Cross Douglas Road. It is noted that under PL28.230780 the houses at this location were reduced to two storey houses by condition. It is requested that a similar condition be attached.

- It is requested that the height of proposed houses backing onto Beechwood Lane and overlooking Beechwood Place be lowered and that balconies and sliding / patio doors on upper floors be removed and any overlooking rear windows be glazed.

6.1.5. Overshadowing

- Given the exceptional height difference of the proposed development (3 storey) commercial, 3 storey houses and 6 storey apartment blocks) and adjoining properties to the north considered inevitable that significant overshadowing and loss of light will arise as a result.
- The absence of shadow projection analysis makes it impossible to adjudicate on such a critical matter

6.1.6. Overbearing

- The insensitive development as proposed due to its height, bulk, mass and scale will be overbearing when viewed from adjoining properties on Douglas Road.
- The development fails to make a positive contribution to the neighbourhood and landscape.

6.1.7. Development Plan & Zoning / Cork City Development Plan & DoEHLG Guidelines

- The development as proposed is contrary to the requirements of the Cork City Development Plan and DoEHLG Guidance to Planning Authorities on Sustainable Residential Development.
- The intent of the relevant objectives and guidance set out have not been adhered to in the design and layout of the proposal. No regard has been had to the ACA which immediately abuts the site to the north and is in the immediate vicinity of the site.
- The Design Statement submitted by the applicant fails to show how the 12 Urban Design criteria as set out in the 2009 Urban Design Manual have been considered.
- The lands area zoned Z04 in the City Development Plan. Paragraph 15.10 states that the provision and protection of residential uses and residential amenity in a central objective of this zoning.

- It is submitted that the layout and design is lacking in urban design qualities and would not be conducive to a quality residential environment. Also submitted that the development is of a density and scale that would adversely impose itself on the area to the detriment of the visual amenities of the area and carrying capacity of surrounding movement network.

6.1.8. Traffic Impact

- The proposed development including access facilities etc can only result in a very significant diminution in the safe use and passage for pedestrians, cyclist and motorist in the area. The loss of existing car parking facilities for residents in the area will give rise to further conflict, congestion, obstruction and traffic hazard. The configuration of the area opening onto Douglas Road unsuitable to accommodate the increase in traffic generated by the scheme proposed.
- The further information Traffic Impact Assessment (TIA) is considered to be flawed on grounds of the traffic survey being out of date and by virtue of the assumed nodal choice / trip generation.
- The TIA assumes that the bulk of trips associated with the crèche and gym will be internal and therefore deemed to be included in the TRICS figures is remiss as these uses could very likely be insignificant trip generators in their own right.
- The development is heavily dependent on off-site infrastructure improvements yet there is no condition stipulating that such works be carried out and completed prior to the commencement of development
- Allowing saturated junctions are a danger to pedestrians and cyclists. The development as is provided for no cycle lanes. It does not integrate onto the Douglas Road safely, which has no cycle lane at this narrow section, it has substandard footpaths. Furthermore there is an uncontrolled laneway that serves the back of Beechwood Place that has been given scant assessment but that remains as having a significant input in the operation of this new junction.

6.1.9. Property Values

- Submitted that the development as proposed will result in the diminution in the value of the appellant's home (No 1 Pinewood, Douglas Road) and that this concern was not addressed by the Planning Authority. The use, enjoyment, residential amenities of an area all influence the value of properties. Submitted that any factors which diminish and are injurious to the use, enjoyment and residential amenities of a property can only result in a diminution in the value of those properties as in this case. Submitted that the pursuit of development, profit etc should be balanced by a respect for the receiving environment and the rights of adjoining residents.
- The appeals by Justin MacCarthy was accompanied by the original submission to Cork City Council x 2. The submission dated 10th February 2017 included a report from Cohalon Downing Estate Agents & Valuers setting out an "opinion as to the likely impact on value of the property at No 1 Pinewood, Douglas Road as a result of the proposed development". The opinion concluded that *"taking into account the discernible impacts on the loss of privacy, natural light and aspect as well as the access issues [they] are of the opinion that the proposed development may depreciate the subject property by 5 – 10 %"*

6.1.10. Legal Interest

- Concern is raised regarding the entrance ownership of the area of land between the subject site and Douglas Road. Submitted that the applicant has no entitlement to the lands and amenities existing between the established boundary of the site and Douglas Road and that the lands are not within the redline boundary.
- The supporting documentation (Michael Powell Solicitors) submitted with the planning application pertaining to legal interest is considered inadequate as the applicant has not demonstrated sufficient legal interest in the site to carry out the development as proposed. The matter has been side stepped by the applicant throughout the planning application.
- This area is used for car parking. Conditions on previous plans in 2006 and 2008 allowed for 12 spaces. This was reduced to 10 spaces and most importantly only reserved for Eldred Terrace. This is of concern as the parking is used by other residents in the area and not just Eldred Terrace.

6.1.11. Eldred Terrace

- The development proposes access over an area that has provided interrupted parking for Eldred Terrace for upwards of 50 years. It is noted that the developer has provided for 12 car parking spaces within the development in lieu of the existing spaces that will be lost. However the following concerns are raised:
 - a) Cork City Council decreased the number to 10 spaces
 - b) If the developer wants parking for No 7 Eldred Terrace (now in the ownership of the developer) this must be provided for outside the 12 spaces as No 7 had substantial parking within its grounds
 - c) 12 spaces should be provided adjacent and proximate to Eldred Terrace
 - d) 12 spaces need to be designated and clearly marked for Eldred Terrace to include one disabled space for No 4 Eldred Terrace
 - e) Alternative proposal submitted moving those No 4 across the development road to the designated Eldred Terrace residents parking area and in turn the parking area is moved to the vacant site at No 4 in order to provide a safer design solution. A remote controlled sliding gate is also proposed.
- Temporary parking for Eldred Terrace during construction is required.

6.1.12. Eastern Boundary Treatment

- The permitted boundary treatment is a post and timber panel fence. This is considered significantly inferior to the 2.0m high concrete block and boundary wall that was proposed in the original application.
- Submitted that the lane to the rear of the first 10 houses on the Cross Douglas Road provides very convenient access to the rear gardens of the 10 properties but it is vulnerable to anti-social behaviour, illegal dumping and trespass. A timber panel fence will be vulnerable to possible lack of maintenance and vandalism. A concrete block wall is much more effective.
- Should An Bord Pleanála be minded to grant planning permission the appellants request two issues be conditioned:

- a) A 2m high concrete block wall to be provided along the full eastern boundary of the site
- b) All necessary measures to be taken to protect and preserve the existing mature hedgerow on the eastern boundary of the site

6.1.13. North East Boundary Treatment

- Submitted that in February 2015 the applicant illegally removed a 20m long section of the hedgerow near “Glenbrae”, Cross Douglas Road. Submitted that there is now hedgerow on this boundary to be disturbed by excavation of foundations and therefore is nothing to prevent a concrete wall form being built.

6.1.14. Appropriate Assessment

- No Appropriate Assessment has been submitted to accompany the proposed development. The proposed development should have been subjected to a site specific AA Screening as the Cork Harbour Special Protection Area is located just 1.6km east of the site.

6.1.15. Inadequate Open Space

- The public open space provision is much less than that calculated by the Planning Authority. The report of the Planning Authority notes that around 4,600sqm or 16.5% of the site area is proposed as public open space and includes (1) main area of linear open space alongside apartments, (2) semi-private courtyards between apartment blocks and (3) shared surface area at the southernmost portion of the site at Glen View Terrace
- The suitability of the shared surface area of this space is queried having regard to its peripheral location, is bounded by car parking, is not overlooked or well connected. Submitted that this is leftover space.

6.1.16. Density

- The density is in the order of 74 dwellings / ha. PL04.230780 had a density of 47 dwellings / ha.
- The site is not appropriate for high density development and precedent should not be used to justify the density proposed. It would place a significant strain on existing public transport provision. The development

makes no provision to facilitate or improve public transport use. It would be a considerable and indirect walk to the nearest bus stop on Douglas Road with inadequate footpath.

6.1.17. Crèche

- The proposed crèche does not meet the relevant criteria set out in the Childcare Facilities – Guidelines for Planning Authorities (2001) as it would be sited within the development (as opposed to the entrance of the development) and as such would bring external traffic (staff, customers, servicing etc) into a residential environment
- Further 4 no car parking spaces for the crèche would be sited directly outside a proposed private dwelling
- According to the plans submitted, the property has an open play area of c120sqm. On the basis of the proposed 23 children to be catered for there is a requirement for 207sqm of outdoor space. The proposed outdoor space is inadequate.

6.1.18. Drainage

- There are serious drainage issues with the parcel of land adjoining No 1 Beechwood Place, Douglas Road affecting the gable wall of said house. The Council have advised that this is not their concern. Photos attached. The requirement to provide a footpath over this land (Condition No 13(a) refers) will act as a dam to prevent water flowing to the public road and closest drain. Requested that :
 - a) Grant of permission is over turned as the developer does not own the parcel of land and has no responsibility for its maintenance
 - b) Developer to be required by condition of planning to resurface and drain the area as part of any footpath works

6.1.19. Taking in Charge

- Conditions No 14 and 15 split the development whereby the apartments are controlled by a management company and the remainder taken in charge by the City Council. However, the important “open spaces” is omitted in Condition No 14 but listed in Condition No 15. Requested that Condition No 14 specifically lists open spaces to be taken in charge by the Council.

6.1.20. **Conditions**

- Concerned raised that a large number of conditions specify “prior to commencement”. Reference is made to Condition No 2, 5, 6, 8, 9, 10,11,12,13,15, 19, 24, 26(a) & (d), 33, 34, 35 and 38.
- Requested that in the interests of orderly development that strict and extensive conditions of development are attached to any development and that the bond is of an adequate nature to cover all eventualities in case the element of the development cannot or are not taken in charge by the City Council.
- Submitted that Condition No 13 should state that the new junction should be completed before commencement of the first phase of development, not as currently specified, prior to occupation of the units as vehicles involved in the building will be a traffic risk.

6.1.21. **Architectural Conservation Area**

- The houses in Beechwood Place are over 120 years old, are as many of the neighbouring houses. An Bord Pleanála stated in 2008 that Beechwood Place has an architectural heritage value has been identified as being of regional importance in the NIAH.
- According to the NIAH report on Beechwood Place, this terrace is “important for scale and character of streetscape”. The development of a site of this density and encompassing 5 and 6 storey apartment complexes will detract from the architectural heritage of existing homes and request that the densities of the proposed site and height of proposed dwellings reflect that existing in the surrounding area.

6.1.22. **Relocation of Sewer Pipe**

- The existing sewer passes through the garden of No 7 Eldred terrace and out onto the Douglas Road. The developers proposes to re-route this. No difficulty with this subject to a legal wayleave and indemnity from the development until sewer is taken in charge.

6.2. Applicant Response

6.2.1. The applicants response to the 6 no appeals was prepared and submitted by Colimore Architects and may be summarised as follows:

- **Douglas Road Access** – Letter from Michael Powell Solicitors dated 25th July 2017 and submitted as part of further information confirming that the owners of this strip of land, the Newenham Estate, consent to the planning application being made.
- **Public Open Space** – Drawing No 151001-AP-01 highlights in green that area included in the calculations for private open space as follows:

a) Main Linear Green Space	2651 sqm
b) Courtyards between Apartments	1602 sqm
c) Green Area at Glenview Terrace	371 sqm
d) Total	4624 sqm

This gives a total of 16.5% of the site area which is in excess of the Cork City Council recommendation of 15% for greenfield sites.

- **Crèche Provision** – The layout around the crèche was redesigned as part of the further information process, resulting in an increased open area for the crèche of 183sqm.
- **Boundary Treatment** – The applicants are open to altering the boundary treatment from a post and panel fence to a concrete block wall.
- **3 Storey Houses** – Due to concerns raised by the appellants in their original appeal the 3 storey houses (Houses 03 and 04) were redesigned to minimise their impact on the adjoining gardens; overall height was reduced by 500mm, with the windows on the second floor to the rear changed to combined roof lights with obscured glazing to vertical elements. Drawings No 151001-PL-20-B and 151001-PL-21-B refer.
- **Loss of Privacy & Light** – The relationship between Beechwood Place and proposed development is set out in drawing No 151001-AP-02. The rear walls at first and second floor of the proposed dwellings are approx. distance of between 29.6m and 42.2m from the rear walls of Beechwood Place and is a sufficient distance to prevent any significant overlooking issues. The house

designs do not allow for access to the flat roofs to the rear of the houses and would not therefore result in overlooking of adjoining properties.

- **Overlooking** – The Crèche is located c 35.9m from the rear wall of No 1 Pinewood and this is considered to be sufficient to prevent overlooking issues. The third floor window to the gym has been specified as obscured glass in order to reduce overlooking.
- **Kenny Homes** – The applicant, Dildar Ltd, the owner of the site has no association with Kenny Homes.
- **Work on Site** – Allegations are misleading. All works carried out on site have been carried out to the satisfaction of Cork City Council.
- **Eldred Terrace Parking** – 12 car parking spaces have been provided for Eldred Terrace. Drawing No 151001-AP-01 refers.

6.3. Planning Authority Response

6.3.1. Cork City Council in their response to the six appeals submitted the following as summarised:

- The planning authority's assessment was robust and the rationale for the decision and conditions is clearly set out in the planners report. All third party submission were considered in the assessment of the planning application.
- The planning authority is satisfied with the scale and impact of the proposed development and that the site is suitable for higher densities such as that proposed.
- The planning authority does not consider that the proposed development will result in a traffic hazard or any significant or unacceptable development will result in a traffic hazard or any significant or unacceptable overshadowing or overlooking of adjacent or nearby properties or that it will have a detrimental impact on the nearby Architectural Conservation Area.
- The issue raised in relation to the legal interest of the applicant to access the site from the Douglas Road was addressed to the satisfaction of the planning authority

- In terms of appropriate assessment the planners report clearly set out that the planning authority excluded any significant effects of the proposed development on any European sites.
- With regard to conditions it is submitted that the Board will be aware that it is not unusual for matters of detail to be addressed by condition, particularly in relation to significant developments
- Any actions or activities the developer may or may not have taken or carried out on or in relation to the proposed development site, or any current planning enforcement matters pertaining to the site or part thereof are irrelevant to the consideration of the planning merits of the proposed development

6.4. **Observations**

- 6.4.1. There are four observations recorded on the appeal file from (1) Gerard & Elizabeth O’Sullivan, Brackendale, (2) Eoin & Helen Connolly, Glenthorne, (3) Colin Murray, Braemar and (4) Maureen Twomey, La Salette.
- 6.4.2. The issues raised related to traffic congestion, boundary treatment and that hardwood posts and panel fences are inadequate in the long term, proximity of the ESB transformer substation to existing houses, the application as granted will result in a relatively high rise, high density development in a suburban location with limited green space for residents, the applicant makes limited recognition of the requirements for access by residents, the knock on impacts on traffic on the Douglas Road (which is a principal route for buses, pedestrians and cyclists to the city centre) and the Cross Douglas Road and insufficient detail has been provided on the treatment of the boundaries to the development.

6.5. **Further Responses**

- 6.5.1. The additional comments set out in the further responses recorded on the appeal file may be summarised as follows:
- **Justin McCarthy** – Many of the concerns raised have not been addressed and in particular the impact of the large gym that is proximate to the appellant’s house. Alternatives must be considered. Submitted that the

reorganisation and alteration to the layout as suggested including more appropriate set back, currently only 3m along with the omission of the window opening and the relocation of same to another elevation would help to support the existing long established residential amenities enjoyed by the appellant and others.

- **Michael & Gillian O’Shea** – The Board is asked to impose a condition requiring that the (1) eastern and north eastern boundaries be constructed of a 2.0m high concrete block wall and that (2) hedgerow and trees on the eastern boundary be protected from damage during the construction phase.
- **Residents of Eldred Terrace** – Inadequate demonstration of legal interest. 12 car spaces should be designated for the houses of Eldred Terrace and excluding House No 7 specifically as it has always had its own parking within the grounds. Reiterated that an alternative parking proposal was put forward with no loss to the developer.
- **Roy & Glena Casey** – The applicant has not addressed fundamental concerns raised regarding land ownership. The outdoor scape area for the crèche still fall short of the required standards and it is noted that the calculations for same include a “crèche yard” that is not overlooked and it is visually and physically separated from the “crèche play area”. The public open space provision is in adequate. Works have been carried out to No 7 Eldred Terrace and is the subject of a Enforcement Notice.
- **Bryan Treacy** – Doubts remain as to the sufficiency of the legal interest pertaining to the proposed access to the site, the buffer to the rear of Beechwood Place is insufficient to facilitate the height jump proposed, this is not a designated strategic development area, Condition No 7 states that 10 spaces are to be provided and 12 as referenced, works have been carried out at site, noted that an enforcement notices was issued, there is a need for proper planning controls attaching to the proposed development and concerns raised regarding the expertise of reports submitted.
- **Cork City Council** – State that they have no further comments to make.

7.0 Assessment

- 7.1. The application submitted to Cork City Council on **2nd September 2016** comprising 50 no. two and three detached, semi-detached and terraced houses, alterations and single storey rear extension to No 7 Eldred Terrace, 153 no one, two and three bedroom apartments in 5 and 6 storey blocks over two no levels of basement car parking, 3 storey mixed use building of 437 sqm containing a crèche of 259sqm and 178sqm commercial unit for use as a private gym with a new vehicle and pedestrian entrance onto Douglas Road and new pedestrian access from Glenview Terrace, South Douglas Road
- 7.2. Further information was received on the **20th January 2017** comprising revised plan indicating a hammerhead turning area and set down for two cars at the crèche, revised phasing proposal, reduction in car parking to 360 (338 + 22), redesign of Houses 30-35 to avoid potential overshadowing and overlooking concerns, redesign of House 03 and 04, omission of House No 09 to provide additional car parking, obscured glazing to the large second floor window serving the gym, revised signalised junction design includes for a pedestrian stage across all arms of the proposed junction and revised boundary proposals for the eastern and south western boundaries allowing for the protection and retention of the established indigenous hedgerows in these locations. Clarification of further information was received on the **26th July 2017** comprising inter alia a revision to House Design to House Type A1, A2, A5 and A6 and revised site plan showing minor revisions to the site layout to the rear of Eldred Terrace.
- 7.3. Accordingly this assessment is based on the plans and particulars submitted on 2nd September 2016, 20th January 2017 and 26th July 2017
- 7.4. Cork City Council issued a notification of decision to grant permission for 203 residential units (as amended and including No 7 Eldred Terrace) subject to 38 conditions on the 22nd August 2017. The decision has been appealed by 6 no third parties. Having regard to the information presented by the parties to the appeal and in the course of the planning application and to my site inspection of the appeal site, I consider the key planning issues relating to the assessment of the appeal can be addressed under the following general headings:
- Principle / Policy Considerations

- Site Access & Traffic Impact
- Residential Impact
- Conservation Impact
- Boundary Treatment
- Eldred Terrace Car Parking
- Property Valuation
- Legal Interest
- Screening for Appropriate Assessment
- Screening for Environmental Impact Assessment
- Development Contributions
- Other Issues

8.0 Principle / Policy Considerations

- 8.1. The operative plan for the area is the Cork City Development Plan 2015 – 2021. Under the provision of the Development Plan the site is zoned *ZO4 Residential, Local Services and Institutional uses where the objective is to protect and provide for residential uses, local services, institutional uses and civic uses and having regard to employment policies outlined in Chapter 3*. Having regard to the zoning objective for the site I am satisfied that the principle of developing 203 (as amended and including No 7 Eldred Terrace) residential units (including No 7 Eldred Terrace), a crèche and commercial unit for use as a private gym at this location is acceptable subject to the acceptance or otherwise of site specifics / other policies within the development plan and government guidance.
- 8.2. Concern is raised throughout the appeal that the density proposed is too high for this site and that a lower density, similar to the scheme permitted in the past, would be more appropriate particularly as this is not a designated strategic development area. It is generally accepted in the interests of sustainability and the efficient use of infrastructural investment that higher densities are to be encouraged in urban areas. Housing density plays an important part in ensuring that the best use is made of land intended for development.

- 8.3. The ‘Sustainable Residential Development in Urban Areas – Guidelines for Planning Authorities’ (DoEHLG, 2009) state 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 revitalising areas by utilising the capacity of existing social and physical infrastructure. It is stated that in general, minimum net densities of 50 dwellings per hectare, subject to appropriate design and amenity standards, should be applied within public transport corridors, with the highest densities being located at rail stations / bus stops, and decreasing with distance away from such nodes. Section 16.41 of the City Development Plan states that within the city minimum residential density in Suburban areas should be 35-50 dwellings per hectare and that densities of greater than 50 dwellings per hectare will normally require a mix of houses and apartments. Densities higher than this baseline level will be appropriate in other types of location as follows:
- Along bus routes densities should be to a minimum density of 50 dwellings per hectare (subject to constraints imposed by the character of the surrounding area);
 - At larger development sites (>0.5 hectares in size, the size of a residential block) capable of generating and accommodating their own character;
 - Major development areas and mixed use areas (including the central areas, District, Neighbourhood and Local centres).
- 8.4. Section 16.42 of the Development Plan also states that the residential density of developments in central and inner suburban (pre-1920) areas of the city will normally be higher than 75 dwellings per hectare responding to the nature of their context, and are more likely to be controlled by other considerations. These will include plot ratios (see Table 16.1), and other planning and design considerations.
- 8.5. As set out previously the site has a stated area of 2.76 ha and the scheme comprises a development of 203 residential units (as amended and including No 7 Eldred Terrace). Having regard to the location, greenfield nature of the site, proposed mixed use tenure, the proximity of the scheme to public transport links (public bus) along Douglas Road and South Douglas Road together with the built character of the area, some of which predates 1920 I am satisfied that a density of c 74 units / ha as proposed is satisfactory at this location. Further I am satisfied that the density proposed is in compliance with the Cork City Development Plan 2015 –

2021 and the minimum requirements of the Sustainable Residential Development in Urban Areas – Guidelines for Planning Authorities' (DoEHLG, 2009).

- 8.6. As set out in the City Development Plan the attainment of higher densities is not a stand-alone objective; rather higher densities must be delivered in tandem with quality to ensure the creation of good urban places and attractive neighbourhoods. The appropriate density for any site will be determined by a wide range of factors such as proximity to public transport, urban form, building height, response to context, parking, provision of adequate internal and external space, amenity considerations and quality of public realm and shared open space. Amenity considerations such as overlooking, overshadowing, daylight, sunlight to adjoining existing residential properties is discussed separately below.
- 8.7. Approximately two thirds of the dwellings proposed are three storeys in height with the remaining one-third being two storeys. Apart from the feature house at the proposed entrance and the adjoining No 7 Eldred Terrace, the lower houses are all proposed at the southern portion of the site proximate to Glen View. The proposed mix use building in the north western corner of the site is also three storeys. The apartment buildings located along the western site boundary are five and six storeys in height with the northern and southern most block 5 storeys each and the middle blocks six storeys. Section 16.27 of the City Development Plan states that within the suburban areas of the city (developed after 1920) low rise buildings will be considered appropriate (including cases where demolition and replacement of existing buildings occurs) except in larger development sites of greater than 0.5 hectares (or one residential block) which are capable of accommodating their own intrinsic character without having an adverse impact on their neighbours. Section 16.28 states that buildings of between 3-5 storeys will be considered appropriate in principle in major development areas and larger development sites, subject to normal planning considerations.
- 8.8. Having regard to the long rear back gardens associated with dwelling on Cross Douglas Road and associated set back from the appeal site together with set back from Beechwood Place I have no objection to the proposed 2 storey and 3 storey dwellings in terms of height and location. I am also satisfied that the proposed 5 and 6 storey apartment blocks are centrally located and sufficiently removed from existing older housing stock. Further I note the Conservation Report of 3rd October

2016 and I agree with the conclusions that the new scheme, will not have a negative impact on the Architectural Character Area. Overall I am satisfied that the overall building form and layout responds to its site and context by stepping down towards the site boundary within this established residential area and that the overall scheme will not detract from the visual amenities of the area.

- 8.9. In terms of apartment design, types and size I am satisfied that the development generally complies with the requirements set out in the Sustainable Urban Housing: Design Standards for New Apartments Guidelines (2015) in terms of dual aspect, size, storage, private amenity space and aggregate floor area. With regard to open space provision I note the concerns raised that the public open space provision is much less than that calculated by the Planning Authority. The report of the Planning Authority notes that around 4,600sqm or 16.5% of the site area is proposed as public open space and includes the main area of linear open space alongside apartments, semi-private courtyards between apartment blocks and the shared surface area at the southernmost portion of the site at Glen View Terrace. I am satisfied that the open space provision within this scheme is acceptable and that it meets the requirements of the City Development Plan. With regard to the proposed crèche, I am satisfied in principle with its location, design and parking arrangement.
- 8.10. Overall I am satisfied that the proposed development (as amended) provides a suitable mix of housing, separation distance and car parking together with the quantitative requirements for private and public open space which are practical in terms of scale and layout. I am satisfied that the overall building form and layout responds to its site and context and will not detract from the visual amenities of the area. Accordingly there is no objection to the layout and design of the development proposed (as amended) at this location.

9.0 Site Access & Traffic Impact

- 9.1. Concern is raised that the proposed development including access facilities etc will result in a very significant diminution in the safe use and passage for pedestrians, cyclist and motorist in the area. The configuration of the area opening onto Douglas Road is considered unsuitable to accommodate the increase in traffic generated by the scheme proposed. The further information contained in the Traffic Impact

Assessment (TIA) is considered to be flawed on grounds of the traffic survey being out of date and by virtue of the assumed nodal choice / trip generation. Also stated that the TIA assumes that the bulk of trips associated with the crèche and gym will be internal and therefore deemed to be included in the TRICS figures is remiss as these uses could very likely be insignificant trip generators in their own right.

- 9.2. I have considered the information available on file and I am satisfied that together with my site inspection that there is adequate information available to consider the appeal. The proposed access to the development is via a redesigned fully signalised junction onto Douglas Road. It is proposed to retain the existing laneway access to Pairc Cholmcille, the medial practise and the rear of the terraces at Beechwood. There will be no vehicular link to the South Douglas Road through the site, but a pedestrian link to the South Douglas Road will be provided via Glen View. Given the location of the appeal site together with the layout of the proposed scheme I am satisfied that the vehicular movements generated by the scheme would not have a significant material impact on the current capacity of the road network in the vicinity of the site or conflict with traffic or pedestrian movements in the immediate area. Overall I consider the proposal (as amended) to be acceptable and I am satisfied that the proposed development will not result in the creation of a traffic hazard.

10.0 Residential Impact

- 10.1. Concern is raised at all stages of the planning application process and the appeal regarding the overshadowing of adjoining properties and overlooking of properties at Douglas Road and Cross Douglas Road. In particular concern is raised with regard to the proximity to the 3 storey commercial building to Beechwood Place and the 3 storey houses (House No 03 and 04) to the rear of No 7 Eldred Terrace and overlooking of Glenbrae, Cross Douglas Road.
- 10.2. The Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (including the associated Urban Design manual) state that inner suburban infill development offers an opportunity for increased densities of development but that *a balance has to be struck between the reasonable protection of the amenities of adjoining dwellings, the protection of established character and the need to provide residential infill.*

- 10.3. Having regard to the information and details available on file together with my site inspection I share the concerns raised by the appellants with regard to loss of amenity by reason of proximity of proposed three storey dwellings to existing dwellings. It is recommended that should the Board be minded to grant permission that a condition be attached that requiring that Houses No 09 to 13 inclusive along the northern boundary with Beechwood Place and Dwelling No 03 and 04 be reduced to 2 storey dwelling with the detail to be agreed with the Planning Authority prior to commencement of work on site.
- 10.4. With regard to the location of the commercial building the applicant points out that it is c 35.9m from the rear wall of No 1 Pinewood and this is considered to be sufficient to prevent overlooking issues. Further the third floor window to the gym has been specified as obscured glass in order to reduce overlooking. Having regard to the nature of the building together with its proximity to adjoining properties and obscure glass to the gym I am satisfied that the proposed development, would not seriously injure the residential amenity of the area of property in the vicinity.
- 10.5. I note the concerns raised in the observation to the Board regarding the location of the proposed ESB transformer station to existing houses. Having regard to the information available on file I am satisfied that the transformer would have a maximum noise level of 50db. Since the general noise level for the area would be likely to be of a similar noise level of higher, a unit transformer such as that proposed would be acceptable at this location.
- 10.6. I would add that having regard to the layout and design of the proposed apartment element of the scheme, I am satisfied that the development in its architectural treatment, orientation and proximity to adjoining properties strikes a reasonable balance between the protection of the amenities and privacy of the adjoining dwellings in terms of overlooking and overshadowing with the requirement to provide residential units on this zoned serviced site.
- 10.7. The proposed scheme strikes a reasonable and appropriate balance between meeting the density requirements necessary to achieve an effective and sustainable use of zoned lands while addressing the sites constraints and the established residential character of the surrounding area. Overall I am a satisfied that the

proposed development, subject to amendments above, would not seriously injure the residential amenity of the area of property in the vicinity

11.0 Conservation Impact

- 11.1. The Conservation Report of 3rd October 2016 notes that the scheme is located behind the terraces on the Douglas Road and the Cross Douglas Road which are recommended by the Minister for Arts, Heritage & the Gaeltacht for consideration as protected structures under the National Inventory of Architectural Heritage (NIAH). The report further notes that the Douglas Road terraces of house, Pinewood, Laurelwood, Belmont Place, Beechwood Place and Eldred Terrace have been designated as the Douglas Road – Northwest Architectural Character Area. Having regard to the proposed development in terms of design and setback I am satisfied that the overall building form and layout responds to its site and context and will not detract from the character or visual amenities of the area.
- 11.2. Further No 7 Eldred Terrace, NIAH reference No 20510453 also forms part of the proposed development. The applicants propose to refurbish No 7 Eldred Terrace, removing the two storey rear return and replacing it with a larger single storey extension. It is also proposed to re-align the front wall and railings to facilitate access into the site from Douglas Road. I agree with the Conservation Officer there is no objection in principle to the proposed works to No 7 Eldred Terrace subject to installation of new timber sash windows, modelled on the surviving original timber window at ground floor on the front elevation.

12.0 Boundary Treatment

- 12.1. The appellants raise concern regarding the proposed boundary treatment along the eastern boundary and the north eastern boundary. Essentially it is submitted that the proposed post and timber rail fence is inadequate and that Condition No 9 of the notification is weak. It is submitted that a concrete block wall would be much more effective at this location. The applicants state that they are open to altering the boundary treatment from a post and panel fence to a concrete block wall. Concerns raised regarding the impact of boundary fencing to the existing hedgerow are also noted.

12.2. As observed on day of site inspection there is an existing hedgerow and laneway (accessing the first 10 houses on the Cross Douglas Road) between the appeal site and the rear boundary of properties fronting onto Cross Douglas Road. Overall the condition of the existing hedgerow between the appeal site and the laneway is very poor (site photos refer). Should the Board be minded to grant planning permission it is recommended that a condition be attached requiring that the developer to construct a 2m high concrete block wall along the full eastern boundary of the site and that all necessary measures are taken to protect and preserve the existing mature hedgerow on the eastern boundary of the site.

13.0 Eldred Terrace Car Parking

13.1. The developer has provided for 12 car parking spaces within the development in lieu of the existing spaces that will be lost at Eldred Terraces in order to provide access to the scheme. I note that Condition 7 of the notification of the decision to grant permission reduced this to 10 spaces and that this is of some concern to the appellants. I also note the alternative proposal submitted by the appellants to move House No 4 across the access road to the area designated for Eldred Terrace parking and in turn move the car parking area to the vacant site at No 4 in order to provide a safer design solution.

13.2. Should the Board be minded to grant permission it is recommended that Condition No 7 make reference to 12 car parking space and be amended to read as follows:

In the event that the proposed parking areas are not taken in charge by the Local Authority / Roads Authority permanent public access shall be provided to a minimum of 10 number parking spaces within the development being parking spaces labelled "EI Tce 017" to "EI Tce 026" inclusive indicated on drawing 1510001-PL-02 received by the planning authority on 26/07/2017. In the interest of the protection of the architectural heritage of the area.

13.3. It is recommended that adequate temporary car parking be provided during construction where necessary, for any car parking spaces displaced at the entrance to the site at Douglas Road. I am satisfied that this matter can be dealt with by way of a suitably worded condition.

13.4. I have considered the alternative parking proposals and associated drawings put forward. I consider that it has significant merit in providing a designated area of parking for the spaces displaced along Eldred Terrace, particularly in terms of reducing the volume of traffic movements associated with the proposed linear car parking at a location proximate to the main site entrance. However I am equally concerned that the area proposed may not be adequate to provide the number of spaces required. Further changes such as that proposed, while providing a reasonable solution in principle, may be considered material to the scheme and therefore it would be inappropriate to deal with same by condition.

14.0 Property Valuation

14.1. I note that concern is raised regarding the depreciation in adjoining residential property values together with the report from Cohalon Downing Estate Agents & Valuers setting out an “*opinion as to the likely impact on value of the property at No 1 Pinewood, Douglas Road as a result of the proposed development*”. The opinion concluded that “*taking into account the discernible impacts on the loss of privacy, natural light and aspect as well as the access issues [they] are of the opinion that the proposed development may depreciate the subject property by 5 – 10 %*”.

14.2. The proposal before the Board is for a residential development on lands zoned for residential use where such developments is considered a permissible use and where it is reasonable to expect developments of this kind would normally be located. The units proposed (as amended) in terms of design, scale, layout and location are not considered to be a bad neighbour in this context and I do not therefore consider that to permit this development would lead to a significant devaluation of property values in the vicinity. Accordingly, I am satisfied that this matter is not material to the consideration of this appeal in this instance.

15.0 Legal Interest

15.1. I note the concerns raised at all stages of this application and appeal regarding the ownership of the area of land between the subject site and the Douglas Road; an area used for car parking and that the applicant has no entitlement to these lands. I also note the letter from Michael Powell Solicitors dated 25th July 2017 and

submitted as part of further information confirming that the owners of this strip of land, the Newenham Estate, consent to the planning application being made.

- 15.2. Having considered the information available on file I am not satisfied that the objectors in this case have demonstrated that the applicant does not have sufficient interest to carry out the works pertaining to proposed development. However I would point out that the planning system is not designed as a mechanism for resolving disputes about title to land or premises or rights over land; these are ultimately matters for resolution in the Courts. In this regard, it should be noted that, Section 34(13) of the Planning Act (as amended) states that a person is not be entitled solely by reason of a permission to carry out any development. Should planning permission be granted and should the appellants or any other party consider that the planning permission granted by the Board cannot be implemented because of landownership or title issue, then Section 34 (13) of the Planning and Development Act 2000 is relevant.

16.0 Screening for Appropriate Assessment

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

17.0 Screening for Environmental Impact Assessment

- 17.1. The Board will be aware that an Environmental Impact Statement (EIS) is required to accompany a planning application for development of a class set out in Schedule 5 of the Planning and Development Regulations 2001-2011 which exceeds a limit, quantity or threshold set for that class of development. An EIS will also be required by the planning authority in respect of sub-threshold development where the authority considers that the development would be likely to have significant effects on the environment (Article 103 refers).

17.2. I am satisfied that the proposed development does not come within the scope of the classes of development requiring the submission of a mandatory EIS as set out in Schedule 5 of the Planning and Development Regulations 2001, as amended nor is it likely to have significant effects on the environment having regard to the criteria set out in Schedule 7 of the of the Planning and Development Regulations 2001 (as amended). Accordingly I am satisfied that the proposed development would not be likely to have significant effects on the environment such that an Environmental Impact Assessment is required.

18.0 **Development Contributions**

18.1. Cork City Council has adopted a Development Contribution scheme under Section 48 of the Planning and Development Act 2000 (as amended). The proposed development does not fall under the exemptions listed in Section 1.7 (Table 5 refers). It is therefore recommended that should the Board be minded to grant permission that a suitably worded condition, similar to Condition No 38 attached to the notification of decision to grant permission be attached requiring the payment of a Section 48 Development Contribution in accordance with the Planning and Development Act 2000.

19.0 **Other Issues**

19.1. **Planning Assessment** - I note the concerns raised regarding the adequacy of the assessment by Cork City Council. However I do not consider this to be a matter for An Bord Pleanála. I would point out for the purpose of clarity that the current development before the Board is considered “de novo”. That is to say that the Board considers the proposal having regard to the same planning matters to which a planning authority is required to have regard when making a decision on a planning application in the first instance and this includes consideration of all submissions and inter departmental reports on file together with the relevant development plan and statutory guidelines, any revised details accompanying appeal submissions and any relevant planning history relating to the application.

19.2. **Development Works** - Concern raised in the appeal that the developers have already established a presence on the site, creating a site entrance and site

compound at the Douglas Road end of the site are noted. Concerns raised regarding compliance with conditions is also noted. It is my view that this is not a matter for An Bord Pleanála. The Planning Acts provide for a planning enforcement mechanism whereby issues of non-compliance with planning conditions can be addressed. Any development works which requires permission and does not have that permission is unauthorised development, as is a development which is proceeding in breach of conditions laid down in the planning permission. Further the carrying out of unauthorised development is an offence. The planning system is operated on the ground by local planning authorities who are responsible for operating Ireland's planning enforcement regime. Accordingly it is my view that such concerns raised should be dealt with at local authority level.

19.3. **Process** – I note the concerns raised that there was limited time made available to objectors during the planning process to consider the further information received. I also note the concerns raised that two different clients have been identified in various submissions. It is not for An Bord Pleanála in this instance to determine whether the application was in breach of the Planning and Development Regulations 2001. I do not therefore consider these issues in this context to be material to the consideration of this appeal and therefore I do not propose to deal with these matters in this assessment.

Conditions – The appellants raised concern that a number of the conditions require the developer to revert to the planning authority for clarification and further information on several aspects. Reference is made to Condition No 2, 5, 6, 8, 9, 10,11,12,13,15, 19, 24, 26(a) & (d), 33, 34, 35 and 38. Section 34(5) of the Planning and Development Act 2000 (as amended) states that conditions may provide that points of detail relating to a grant of permission may be agreed between the planning authority and the person to whom the permission is granted. However, the Development Management Guidelines (2007) recommend that the use of conditions that require matters to be agreed should be avoided where the matters involved are of a fundamental nature or such that third parties could be affected. I have considered the details of these conditions and I am satisfied that the matters to be agreed relate to points of detail and are not a fundamental nature or such that third parties could be affected.

19.4. **Flood Risk Assessment** - The proposed development site is not located within Flood zones A or B as specified in the Flood Risk Management Guidelines for Planning Authorities 2009.

20.0 Recommendation

20.1. Having considered the contents of the application (as amended), the provision of the Development Plan, the grounds of appeal and the responses thereto, my site inspection and my assessment of the planning issues, I recommend that permission be **GRANTED** for the reasons and considerations set out below.

21.0 Reasons and Considerations

21.1. Having regard to the residential zoning of the site in the Cork City Development Plan 2015-2021, the Sustainable Residential Development in Urban Areas Guidelines for Planning Authorities (2008), the location of the site and to the pattern of development in the area, it is considered that, subject to compliance with the conditions set out below, the proposed development would be in accordance with the zoning objectives for the area, would not seriously injure the residential or visual amenities of the area or of property in the vicinity, would respect the existing architectural heritage and character of the area and would be acceptable in terms of traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

22.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application on 2nd September 2016, as amended by the further plans and particulars submitted on the 20th January 2017 and 26th July 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. (a) Houses No 09 to 13 inclusive along the northern boundary with Beechwood Place and Dwelling No 03 and 04 located to the rear of No 7 Eldred Terrace shall be reduced to two storey dwellings. Details shall be agreed with the Planning Authority prior to commencement of work on site.
- (b) Prior to commencement the developer shall submit for written agreement of the Planning Authority revised drawings indicating the omission of the sliding glazed doors at first floor levels serving “Bed 2” in the rear elevation of all Type A1 and A2 dwellings as indicated on drawings 151001-PL-17-B and 151001-PL-18-B received by the Planning Authority on 26th July 2017 and their replacement with a window.
- (c) The flat roof over part of the kitchen in the rear elevation of all Type A1 and A2 dwellings as indicated on drawings 151001-PL-17-B and 151001-PL-18-B received by the Planning Authority on 26th July 2017 shall not be used as a balcony or roof garden and shall not be accessible
- (d) All flank windows at first and second floor level in all Type A1 and A2 dwellings as indicated respectively on drawings 151001-PL-17-B and 151001-PL-18-B received by the Planning Authority on 26th July 2017 shall be finished in obscured or frosted glazing
- (e) The first floor windows in the south eastern flank elevation serving a bathroom and stairs of the Feature House / House 02 as indicated on drawing 151001-PL-16 received by the Planning Authority on 2nd September 2016 shall be finished in obscured or frosted glazing
- (f) Prior to commencement of development the developer shall submit for the written agreement of the planning authority revised drawings omitting the vehicle entrance to the Feature House / House 02 as indicated on drawing 151001-PL-02-B received by the Planning

Authority on 26th July 2017. This area is to be used as garden / amenity area serving the dwelling.

Reason: In the interest of residential amenity

3. Prior to commencement of work on site the following details shall be prepared by a suitably qualified professional and submitted for the written agreement of the Planning Authority:

- (a) Specifications, method statement and schedules of works for the reconstruction of the realigned front wall and for the reuse of the pedestrian gate and railings serving No 7 Eldred Terrace shall be submitted for the written agreement to the Planning Authority

- (b) Design and detail of new timber sash windows for No 7 Eldred Terrace following the model of the surviving original window at ground floor level on the front elevation

Reason: In the interest of the protection of the architectural heritage of the area.

4. (a) In the event that the proposed parking areas are not taken in charge by the Local Authority / Roads Authority permanent public access shall be provided to a minimum of 12 number parking spaces within the development being parking spaces labelled "El Tce 07", "El Tce 08", and "El Tce 017" to "El Tce 026" inclusive indicated on drawing 1510001-PL-02-B received by the planning authority on 26th July 2017.

- (b) Adequate temporary car parking shall be provided during construction where necessary, for any car parking spaces displaced at the entrance to the site at Douglas Road. Details all be agreed in writing with the Plannign authority prior to commencement of work on site.

Reason: To ensure that the development does not unduly injure the amenities of existing houses in the vicinity.

5. Prior to commencement of work on site the developer shall agree in writing full details of a legally incorporated management company which shall be responsible for the future maintenance and upkeep of all services associated with the apartment blocks of this development including drains,

sewers, watermains, public lighting, paths, open spaces and refuse storage areas.

Reason: To ensure the satisfactory maintenance of the site in the interest of visual and residential amenity.

6. All findings of the Stage 1/2 Road Safety Audit shall be incorporated into the development and paid for in full by the applicant. Stage 3/4 Road Safety Audit shall be undertaken, closed out, signed off and acted upon. All cost associated with this condition shall be borne by the developer.

Reason: In the interest of traffic safety

7. The developer shall install a signal controlled junction at the proposed access to the development from the Douglas Road. The new junction shall provide a pedestrian crossing across the Douglas Road. The works herein required shall meet the specifications of the planning authority. No part of the development may be occupied until the works to the junction, including the reinstatement and repair of footpaths in its vicinity, have been completed to the satisfaction of the planning authority and so certified in writing.

Reason: In the interest of traffic safety.

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

Reason: In the interest of visual amenity.

9. 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.

10. Public lighting shall be provided in accordance with a scheme, which shall include lighting along pedestrian routes through open spaces, details of which shall be submitted to, and agreed in writing with, the planning

authority prior to commencement of development. Such lighting shall be provided prior to the making available for occupation of any house.

Reason: In the interests of amenity and public safety.

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

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

12. All service cables associated with the proposed development (such as electrical, telecommunications and 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.

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

Reason: In the interest of urban legibility.

14. (a) The roads and traffic arrangements serving the site (including signage)

shall be in accordance with the detailed requirements of the planning authority for such works and shall be carried out at the developer's expense. Details in this regard shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

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

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

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

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

15. A plan containing details for the management of waste (and, in particular, recyclable materials) within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable within each house plot shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the waste shall be managed in accordance with the agreed plan.

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

16. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including hours of working, noise management measures and offsite disposal of construction/demolition waste.

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

17. Not more than 75% of residential units shall be made available for occupation before completion of the childcare facility unless the developer can demonstrate to the written satisfaction of the planning authority that a childcare facility is not needed.

Reason: To ensure that childcare facilities are provided in association with residential units, in the interest of residential amenity.

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

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

19. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion and maintenance until taken in charge of roads, footpaths, watermains, drains, public open space and other services required in connection with the development, coupled with an agreement empowering the planning authority to apply such security or part thereof to the satisfactory completion or maintenance of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be determined by An

Bord Pleanála.

Reason: To ensure the satisfactory completion of the development.

20. 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 the 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.

Mary Crowley

Senior Planning Inspector

15th January 2018