



An  
Bord  
Pleanála

## Inspector's Report PL28.249400

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<b>Development</b>	Demolition of existing dwelling and construction of 117 no. residential units, bin stores, ESB substation building and all associated site works.
<b>Location</b>	Eden, Blackrock, Cork
<b>Planning Authority</b>	Cork City Council
<b>Planning Authority Reg. Ref.</b>	16/37233
<b>Applicant</b>	Pierse Developments (Blackrock)(In receivership)
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant subject to conditions
<b>Type of Appeal</b>	3 <sup>rd</sup> Party v. Grant
<b>Appellants</b>	K.Coughlan & C. Riordan
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	09/01/18
<b>Inspector</b>	Pauline Fitzpatrick

## 1.0 Site Location and Description

The site, which has a stated area of 5.59 hectares, forms part of the former Ursuline Convent grounds in Blackrock in the south-eastern environs of Cork City. It constitutes 'Phase 2' of the Eden residential development which has been constructed/under construction to the east and south of the Convent building comprising a mix of apartments, dwellings and duplex units (parent planning ref. 03/27645). The site is to the south of Blackrock village and approx. 500 metres to the south of Blackrock Pier. It is c. 1.5km to the north of Mahon Point Shopping Centre.

The 2 to 4 storey convent building has been converted into apartments, accessed via a gated entrance from the original avenue to the north off Blackrock Road which also provides access to Scoil Ursula Primary School and the Ursuline Secondary School to the north-west of the convent building. 6 storey apartment blocks have been constructed to the east side of the formal garden area (south of the convent building) which is centred on an Oratory and which is currently undergoing restoration. The said apartments (with the dwellings/duplex units to the rear of same) are accessed from Convent Road. A single storey cottage at the junction of Convent Road and Convent Mews forms part of the site. Two and three storey dwellings dominate the first phase of the scheme to the south which are accessed from Blackrock Grove off Skehard Road. Dwellings are currently under construction to the west of Blackrock Grove. A four storey building is positioned at the entrance to the estate from Skehard Road occupied by the Blackrock Primary Care Centre which included doctor's surgeries, dentist, counselling services etc. with a pharmacy and supermarket (Aldi) at ground floor level. The building is served by both underground and surface car parking (east of the building) with overflow parking evident along its frontage on Blackrock Grove.

The appeal site largely constitutes the western section of the original lands on part of which original site development works were undertaken. It is bounded by the school grounds and playing fields to the north-west. Lines of mature trees delineate the boundaries to the formal garden of the convent building with a stone wall along the southern boundary. An old rail line forms the western boundary of the site.

## 2.0 Proposed Development

The application was lodged with the planning authority on the 22/12/16 with further plans and details (including revised public notices) received on 04/07/17 & 21/08/17 following requests for further information dated 23/02/17 and clarification of further information dated 28/07/17. Unsolicited information was submitted 26/01/17 clarifying a clerical error in the original application.

As amended by way of the said further information the original proposal for 117 residential units was increased to 141 units.

The development comprises:

- (a) Demolition of existing dwelling on Convent Road
- (b) 141 residential units consisting of:
  - 66 houses comprising of 10 no. house types in detached, semi-detached and terraced, two and three storey design
    - 65 3+ bedrooms
    - 1 no. 2 bedroom
  - 33 apartments in 2 no. four and five storey blocks comprising:
    - 11 no. 1 bedroom ranging in size between 52 and 63.7 sq.m.
    - 22 no. two bedroom ranging in size between 83.9 and 127.1 sq.m.
  - 42 Duplex and Apartment block 4/5 storeys high containing:
    - 16 no. 3 bed duplex units
    - 16 no. 2 bed duplex units
    - 10 no. 1 bed apartments
- (c) 277 sq.m. crèche in ground floor of apt. block no. 2
- (d) ESB substation
- (e) Repairs to oratory building
- (f) Ancillary works, parking and landscaping

The development is within the curtilage of the Ursuline Convent which is a protected structure.

The development will be accessed via Blackrock Road to the north, from Skehard Road to the south and Convent Road to the east. The roads layout precludes through traffic. 290 parking spaces are proposed.

The development is to be constructed in 2 phases.

The application is accompanied by:

- Planning Report and Design Statement
- Traffic and Transport Assessment
- Conservation Report
- Photomontages
- Site Services Planning Report
- Bat and Invasive Plant Species Assessment
- AA- Screening

## **3.0 Planning Authority Decision**

### **3.1. Decision**

Grant permission subject to 36 conditions. Of note:

Condition 18: Maximum of 258 residential and crèche parking spaces to be provided. A further 10 (max.) visitor parking spaces may be provided to serve the oratory.

Condition 20: Stage 1/2 Road Safety Audit to be completed.

Condition 32: remodelling of storm network as far as the point at which it discharges to the existing 900mm storm water sewer just upstream of the outfall to Blackrock Harbour.

Condition 36: Supplementary Development Contribution towards Cork Suburban Rail Project.

## 3.2. Planning Authority Reports

### 3.2.1. Planning Reports

The **1<sup>st</sup> Senior Executive Planner's** report dated **21/02/17** notes that the density of the parent permission under ref. TP03/27645 was 43.8 units per hectare. Taken in the context of that built and under construction the proposed overall density would be 35 units per hectare (based on a total number of 440). The proposal for 117 units is contrary to the design philosophy of the original permission for around 260 units on the same part of the site. The site represents an opportunity to achieve the same level of density originally permitted on this site. There are locations which are appropriate for buildings of scale and height. The applicant has not put forward any compelling reasons for reducing the original density. The proposal to construct 3 storey terraced dwellings along the western side of the formal gardens to the south of the Convent building would have an unsatisfactory impact on the setting of same. They should be omitted and replaced with buildings of similar scale to that constructed on the eastern side of the garden. The apartment blocks would not have an adverse impact on amenities of adjoining property. The 302 parking spaces to be provided represent an overprovision of 55 spaces. A request for further information is recommended on surface water drainage, density, a revised Traffic and Transport Assessment, road layouts, car parking provision, treatment of areas around proposed apartment blocks, phasing, Part V, works on the Oratory and schedule of gross internal floor area for all buildings.

The **Senior Planner's** report dated **27/07/17** following FI considers that the revised proposal addressed the key concerns with regard to acceptable increase in overall density and the visual context by reference to convent square. The corridor on the 2<sup>nd</sup> floor of the revised block runs the length of the building. The layout could be improved by having shorter areas serving smaller groups of apartments and this could be achieved by allowing for middle units to extend the full width of the building. Clarification of FI is required on the TTA and traffic counts undertaken, width of cul de sacs, parking provision and Part V proposals.

The **2<sup>nd</sup> Senior Executive Planner's** report dated **15/09/17** following clarification of FI considers 32 spaces for the oratory and convent grounds to be excessive. 258 spaces serving the residential and crèche components with a further 10 for the

oratory is recommended. A grant of permission subject to conditions is recommended. The 2<sup>nd</sup> **Senior Planner's** report dated **18/09/17** endorses the recommendation.

### 3.2.2. Other Technical Reports

**Internal Consultant's** Report dated **07/02/17** notes the bat survey and invasive species survey. There is no objection to the proposal subject to conditions including management plan for the control of alien invasive species.

**Environment** reports dated **07/02/17, 09/02/17 & 11/08/17** have no objection subject to conditions.

**Archaeology** report **14/02/17** states there is no objection. The site has been comprehensively archaeologically tested as part of the previous application under ref. 03/27645.

The **Conservation** Report dated **15/02/17** considered that the impact on the setting of the main convent building is unsatisfactory resulting in an unbalanced and incomplete formal layout around the garden. Further information recommended requiring re-configuration of the layout on the west side so the buildings have a scale and character equivalent to what was permitted under TP03/27645. A timeframe for carrying out of works to Oratory also required. The 2<sup>nd</sup> **report** dated **21/07/17** following FI considers that the proposed 4 and 5 storey building on the west side of the garden is acceptable in terms of scale and character. A Section 59 notice has been served requiring the more timely protection and repair of the Oratory than that allowed by a grant of permission and consequently falls outside the scope of the report. No objection subject to conditions.

**Roads Design** in a report dated **16/02/17** notes that the parent permission showed a greater proportion of the site being accessed from the Skehard Road junction than what is currently proposed but that the overall number of units being accessed from the Blackrock Road has been reduced. Justification should be provided for how the development is split in terms of the access arrangements with traffic impacts on both approaches considered. The parking exceeds the car parking standards. The minimum road width throughout the development should be 5.5 metres. Further information is recommended. A 2<sup>nd</sup> **report** dated **26/07/17** following FI considers that shared surface cul de sacs are not considered suitable in this context.

Footpaths are required in all housing estates for the safety of pedestrians. All cul de sacs should be designed so that a 2m public footpath 5m wide carriageway are provided. The total parking requirement is 241 spaces. Whilst it is possible that a small number of spaces may be required for people visiting the oratory/convent garden 59 spaces for this purpose is excessive. Clarification of FI is recommended. The **3<sup>rd</sup> & 4<sup>th</sup> reports** dated **11/09/17 & 15/09/17** have no objection subject to conditions including a maximum of 241 residential parking spaces and a further 10 for visitor parking to the oratory. 3 no. apartments fall within the railway corridor triggering the supplementary development contribution.

**Transport and Mobility** Report dated **17/02/17** recommends further information be sought on details in the TTA. The **2<sup>nd</sup> report** dated **13/09/17** considers the clarification of FI to be satisfactory.

**Drainage Report** dated **20/02/17** recommends a request for further information as to the design of the storm drainage proposals. Conditions should permission be granted are detailed. The **2<sup>nd</sup> report** dated **19/07/17** following FI states there is no objection subject to conditions.

**Development Contributions Memo** dated **20/02/17** notes the requirement for the attachment of the general contribution scheme.

**Housing** in a report dated **21/02/17** recommends a request for further information on Part V proposals. The **2<sup>nd</sup> report** dated **08/09/17** notes that there is an 8 unit credit relating to the previous phase of the development. Therefore the provision on the site should be 6 units to fulfil its Part V obligations.

### 3.3. **Prescribed Bodies**

None

### 3.4. **Third Party Observations**

3<sup>rd</sup> party observations and objections to the proposal received by the planning authority have been forwarded to the Board for its information. The issues raised relate to access, traffic, parking, amenities of adjoining property, visual impact and impact on protected structure.

## 4.0 Planning History

There is an extensive planning history on the site the details of which are set out in the 1<sup>st</sup> Senior Executive Planner's report summarised above.

Of note:

2004 - TP03/27645 permission granted for 550 units in a mixed use development on the overall Ursuline Convent site which has a stated area of c. 12.5 hectares in area. The application was accompanied by an EIS.

2005 – TP05/30087 permission for amendments to TP03/27645 providing for an additional 31 units.

2008 – TP07/32545 permission for amendments to TP03/27645 providing a net reduction in units of 4.

## 5.0 Policy Context

### 5.1. Cork City Development Plan 2015-2021

Most of the site is zoned ZO 4 – Residential, Local Services and Institutional Uses, the objective being to protect and provide for residential uses, local services, institutional uses and civic uses.

Part of the site (that comprising the formal garden to the south and the open green area to the north of the Convent building) is zoned ZO 14 – Public Open Space, the objective being to protect, retain and provide for recreational uses, open space and amenity facilities with a presumption against developing land zoned public open space areas for alternative purposes, including public open space within housing estates.

The Convent building and open green lands to the north up to Blackrock Road are designated as an Area of High Landscape Value (AHLV). The site includes part of these lands.

The Convent building is a protected structure. The northern part of the site is within the Blackrock ACA, Sub-Area C Blackrock Village and Surrounding Suburbs.



Chapter 6 sets out the Residential Strategy with Chapter 16 setting out Residential Development Standards including parking requirements.

## 5.2. **Natural Heritage Designations**

None in the vicinity.

## 6.0 **The Appeal**

### 6.1. **Grounds of Appeal**

The 3<sup>rd</sup> Party appeal by Kieran Coughlan & Claire Riordan refers. They own and operate Blackrock Hall Primary Care Centre adjoining.

The ground of appeal can be summarised as follows:

- The appellants have 20 no. car parking spaces within the application site.
- Condition 18 requires the omission of 42 spaces (14% of the parking proposed). It is worded so that parking is to be provided as per the maximum parking standards set out in the City Development Plan for the residential scheme and oratory only. It does not allow for the provision of the said overflow spaces to serve Blackrock Hall which are currently in use and which the applicants are legally obliged to provide.
- There would be a negative impact on parking provision in the wider area and could result in an impact on traffic flows and road users in general.
- Regard should be had to the said overflow parking spaces. This could be accommodated through the amendment of the condition allowing a maximum of 278 - 258 for the residential and crèche with 20 as overflow to serve the care centre. It is also open to the Board to reduce the density of the scheme in the southern section to the centre to not more than 10 no. 1-2 bed apartments.

## 6.2. Applicant Response

The submission by McCutcheon Halley on behalf of the 1<sup>st</sup> party can be summarised as follows:

- The appellants have no title to the car parking spaces and no contractual entitlement to use or keep car parking spaces on the applicant's land.
- Whilst Cork City Council reduced the number of car parking spaces by condition none of the car parking proposed by the applicant was identified for use by Blackrock Hall. All parking spaces proposed are to be associated with the proposed residential units, the crèche and public amenity space.
- The applicant would welcome a decision whereby the quantum is not reduced. The development would be better served by the 290 spaces proposed.
- The requirements to reduce the number of parking spaces as per condition 18 has no impact on the appellants as they would have no entitlement to use these car parking spaces.
- Parking provision associated with the primary care centre should be provided at Blackrock Hall as it is related to their development.
- Correspondence on file 09/34229 stated that there is adequate parking to serve the primary care centre. The planning authority considered the parking to be adequate.

## 6.3. Planning Authority Response

The response can be summarised as follows:

- Cork City Development Plan sets out maximum standards. The provision of parking materially in excess of the maximum standards would be contrary to the objectives of the Development Plan and would overwhelm the appearance and amenities of the public realm within the development.
- The development plan does not facilitate the provision of 'overflow' car parking to benefit commercial developments.

- The recommendation that the density be reduced is contrary to the Core Strategy.
- The planning system is not designed as a mechanism for resolving disputes about rights over land.

#### 6.4. **Observations**

None

#### 6.5. **Section 131 Notice**

The appeal was circulated to specified prescribed bodies as the proposal would involve the carrying out of works to a protected structure. No comments received.

### 7.0 **Assessment**

I consider that the issues arising in the case can be assessed under the following headings:

- Density of Development
- Design and Layout
- Access and Parking Provisions
- Other Issues
- Appropriate Assessment

#### 7.1. **Density of Development**

The proposal before the Board essentially constitutes the 2<sup>nd</sup> phase of development on the former Ursuline Convent Grounds, the majority of which is zoned ZO 4, the objective being to protect and provide for residential uses, local services, institutional uses and civic uses. Part of the site, namely that comprising the formal garden to the south, is zoned ZO 14 the objective being to protect, retain and provide for recreational uses, open space and amenity facilities.

The original permission for development of the overall lands (stated area 12.5 hectares) granted in 2004 under ref. TP03/27645 provided for 550 units in a mixed use development. The application was accompanied by an EIS. The said permission equated to a gross density of approx. 44 units per hectare. A site plan of the said permitted development is set out on pages 8 & 9 of the Design Statement accompanying the application.

Consequent to the said permission there have been a material number of permissions secured for alterations and modifications to the original scheme, the majority of which have expired. To date 260 units have been constructed, with a further 27 apartments provided within the converted convent building and 34 dwellings currently under construction. The development to date has been concentrated to the east and south of the Convent Building and formal garden area.

The application site constitutes the lands to the west and remaining lands to the south, in addition to the replacement of a single storey dwelling to the east (at a remove from the undeveloped lands) accessed from Convent Road. The site has a stated area of 5.59 hectares. The application as originally lodged with the planning authority proposed a mix of 114 dwelling types which equated to a gross density of 20.4 units per hectare. However I consider that it is more appropriate to assess the provision in the context of the overall development of the lands. Therefore, coupled with the 321 units constructed/under construction the total number of units proposed on the overall 12.5 hectare site would be 435 equating to a gross density of 34.8 units. By way of further information, the number of units was increased to 142 giving a gross density of 25 units per hectare on the application site. Coupled with the development to date on the overall lands a total of 463 units is proposed which gives a density of approx. 37 units per hectare.

Whilst this is lower than that permitted in the original permission in 2004 I note that the current City Development Plan recommends densities of between 35-50 units per hectare in suburban locations whilst the Guidelines for Sustainable Residential Development in Urban Areas states that average net densities at least in the range of 35-50 dwellings per hectare on institutional lands should prevail with the objective of retaining the open character of such lands achieved by concentrating increased densities in selected parts (say up to 70 dph).

The said guidelines also note that a net site density measure is a more refined estimate than a gross site density measure and includes only those areas which will be developed for housing and directly associated uses including access roads and incidental open space and landscaping and children's play areas where these are to be provided. It excludes open spaces serving a wider area and significant landscape buffer strips. All densities quoted in the guidelines are net densities.

In this context and taking into consideration the fact that the formal garden area retained to the south of the original convent building (with the Oratory at its centre) is zoned for public open space and is to be open to a wider catchment than the housing development with parking to be provided for visitors to same, I consider that its omission from the calculations as allowed for above would be a reasonable approach. The area equates to approx. 0.9 hectares giving a calculable area of in the region of 11.6 hectares. 463 residential units on 11.6 hectares equates to a net density of approx. 40 units per hectare.

The overall proposed net density complies with the parameters recommended for institutional lands as set out in the stated Guidelines, albeit at the lower end of the spectrum. I consider that it is acceptable and is in keeping with the development objectives for the area.

## **7.2. Design and Layout**

As noted in the previous section the development effectively comprises the 2<sup>nd</sup> phase and the completion of development on the former Ursuline Convent lands.

The area of material concern during the Council's assessment of the application pertained to the scale and design of the units fronting onto the formal garden and oratory, notably those defining the space to the west. The original proposal for three storey dwellings (Block 3) has been replaced by 4 storey duplex units bookended by 5 storey apartment blocks with a height of 15.750 metres which is more reflective of the 6 storey apartment buildings constructed to the east (height 16.150 metres). The three storey dwellings to the south of the garden area allow for a stepping down in scale to the two and three storey residential development constructed to the south of same. Although the buildings around the garden would be different in organisation and character I accept the applicant's contention that the proposal provides for

balance and cohesiveness. The fact that the garden is dominated by lines of mature trees which will continue to dominate the space and provide for a material level of screening.

I would note that the development meets all the city plan's development control standards and the requirements set out in the Design Standards for New Apartments with regard to unit sizes, floor dimensions, aspect and private open space provisions. Coupled with the development to date on the overall lands an adequate mix of dwelling unit sizes and types will be provided largely complying with the indicative targets for dwelling size as set out in Table 16.4 of the City Development Plan (7% 1 bed, 46% 2 bed & 47% 3 + bed). The requirements of DMURS have been applied as appropriate throughout. I proposed to address parking separately below.

I submit that the overall design which takes due cognisance of the first phase of development would be acceptable in the context of the relevant guidelines (Urban Design manual) and the policies of the City Development Plan. The location of the proposed crèche to the south of the site in proximity to the existing local service centre constitutes an appropriate grouping of facilities. In this regard I would therefore consider that the scheme as proposed to be satisfactory.

### **7.3. Access and Parking Provisions**

Three accesses have been developed for the overall lands. In terms of the proposal before the Board the bulk of the proposal is to be served by the avenue to the north with access onto Blackrock Road. Access to Apartment Blocks 1 and 2 including the crèche is proposed from Blackrock Grove (Avenue) from Skehard Road. The 3<sup>rd</sup> access serving the existing development on the eastern portion of the lands from Convent Road will serve the replacement dwelling only. No through vehicular access is proposed.

The original application for a larger development of 550 units under ref. TP03/27645 was accompanied by an EIS and the access arrangements were considered acceptable. As noted in the Council's Roads Design reports the overall number of units being accessed both from Blackrock Road has been reduced. Financial contributions towards necessary road improvement works both to the north and south of the overall lands were attached at that juncture.

The issue of parking constituted a material consideration in the planning authority's assessment of this application and is of the view that that provided (as amended throughout the process) is excessive and contrary to the development plan requirements. Consequent to the clarification of further information request 290 spaces are proposed.

The said Cork City Development Plan is explicit that the standards set for residential development are maximum requirements in order to constrain car trip generation and promote patronage of "green" modes of transport. The site is within 'Zone 3' as delineated on Figure 16.1 and Map 11. In same the following pertain:

<b>Development Type</b>	<b>No. of Spaces</b>
Residential (1-2 bedroom)	1.25 spaces
Residential (3+ bedroom)	2.25 spaces
Creche	1 per 6 students
Other Cultural / Recreational And Leisure Uses	Dependent Upon Nature And Location Of Use

Working from the development, as amended, the following provision is calculated:

<b>Development Type</b>	<b>No. of Units</b>	<b>No. of Spaces</b>
1-2bedroom	60	75
3+ bedroom	81	182.25
Creche	277 sq.m. (2.8 sq.m. per child)	16.5
<b>Total</b>		<b>273.75</b>

The provision serving visitors to the Oratory and formal garden is not specifically covered. The development plan states that parking provision would be dependent on the nature and location of the use. In that context, therefore, I consider that the planning authority recommendation of 10 spaces to be entirely reasonable. This gives an overall maximum requirement of 284 spaces which is only marginally less

than the 290 spaces proposed. The Board is advised that the 284 space requirement as calculated above differs from that set out in the Planner's report dated 15/09/17 who calculates a parking requirement of 268 (258 for residential/crèche plus 10 visitor parking for the Oratory). Condition 18 reflects this calculation.

Parking constitutes the material concern of the 3<sup>rd</sup> party appeal by the owners of the Blackrock Primary Care Centre located to the south of the overall development lands. It comprises of a 4 storey building providing doctor's surgeries and complementary services including dentistry, audiology and counselling services over a supermarket (Aldi) and pharmacy. The said local centre is served by surface parking to the rear and underground parking. As per the parent permission for the building granted under ref. 05/29683 the parking provision accounted for 171 spaces. A subsequent permission was granted under ref. 09/34229 to amalgamate a library and medical centre/local service unit as permitted to provide for one unit for medical/local service unit. None of the conditions attached to the permission pertained to the requirement to provide additional parking over that existing. It is reasonable to surmise that the application and the parking requirements for same would have been assessed against the development plan prevailing at the time.

The centre currently avails of a further 20 surface parking spaces along Blackrock Grove to the north-east of the building as 'overflow parking provision' within the site of the current application but outside the boundary of the said service centre. No supporting details have been provided as to the appellants' legal interest in the said lands, rights to the parking or on what basis the applicants are legally obliged to provide the said provision. The agent for the applicant states that no such rights exist with no contractual entitlement to use or keep car parking spaces on the applicant's land. On the basis of the information on the file and the absence of confirmation of rights I submit that the benefit lies with the applicant. In this context I note that Section 5.13 of the Development Management Guidelines for Planning Authorities notes that the planning system is not designed as a mechanism for resolving disputes about title or rights over land and is a matter for resolution through the appropriate legal channels.

Whilst the appellants may have availed of such parking provision to date without any conflict due to the absence of development of adjoining lands, to now require the



development to provide additional parking for a commercial development not within its ownership is entirely unreasonable. The provision of parking is the responsibility of the said development itself.

The parking provision proposed in the area which has been used by the Care Centre will now serve the proposed apartment blocks and crèche and the spaces will be allocated accordingly. Issues of unauthorised parking in the said spaces and the on street parking along the access road as evident on day of inspection will be a matter for enforcement by the relevant authority.

The Board is advised that the north-western corner of the site is within the area covered by the Supplementary Contribution Scheme for the Cork Suburban Rail Project.

#### **7.4. Other Issues**

The application as originally lodged with the planning authority proposed restoration works to the Oratory within the formal garden area. Consequent to the lodgement of the application a Section 59 notice has been served on the site owner requiring the protection and repair of the Oratory. As per the details given in the Council's Conservation Officer's report this was so as to allow for a timely intervention that that allowed by a grant of permission. As noted on day of inspection works were being undertaken on the building.

#### **7.5. Appropriate Assessment**

The site is approx. 1km to the south-west of the nearest point of the Cork Harbour SPA (site code 004030). Having regard to the location of the fully serviced site in proximity to existing, permitted and proposed residential and commercial development and to the intervening land uses, no Appropriate Assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

## 8.0 Recommendation

- 8.1. Having regard to the documentation on file, the grounds of appeal, the responses thereto, a site inspection and the assessment above I recommend that permission for the above described development be granted for the following reasons and considerations subject to conditions.

## 9.0 Reasons and Considerations

Having regard to the provisions of the Cork City Development Plan 2015-2022, to the planning history 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 not seriously injure the amenities of the area or of property in the vicinity, would not detract from the setting of the former Ursuline Convent building which is a protected structure and would be acceptable in terms of parking provision and pedestrian and traffic safety. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 10.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars submitted on the 26<sup>nd</sup> day of January, 2017, 4<sup>th</sup> day of July, 2017 and 21<sup>st</sup> day of August 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. This grant of permission is for 141 residential units and a crèche only.

**Reason:** In the interest of clarity

3. A maximum of 274 no. car parking spaces shall be provided within the site to serve the residential units and crèche. A maximum of 10 no. car parking spaces shall be provided within the site to serve visitors to the Oratory and former convent garden. The locations and layout of these spaces shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** To ensure adequate off-street parking provision is available to serve the proposed development.

4. (a) The development shall be carried out on a phased basis in accordance with the details submitted to the planning authority on the 4<sup>th</sup> day of July, 2017.

(b) Work on the 2<sup>nd</sup> phase shall not commence until such time as the written agreement of the planning authority is given to commence the said phase.

**Reason:** To ensure the timely provision of services, for the benefit of the occupants of the proposed dwellings.

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

**Reason:** In the interest of visual amenity, and to ensure that the proposed development integrates into the pattern of development in the area.

6. All screen walls shall be two metres in height above ground level and shall be finished in a material to match the external finishes of the adjoining dwellings.

**Reason:** In the interest of residential and visual amenity

7. The internal road network and access serving the proposed development, including turning bays, junctions, sight distances, parking areas, footpaths, cycle tracks and kerbs shall be in accordance with the detailed requirements of the planning authority for such works, and shall comply in all respects with the provisions of the Design Manual for Urban Roads and

Streets.

**Reason:** In the interest of pedestrian and traffic safety, and in order to comply with national policy in this regard.

8. The development hereby permitted shall be carried out in accordance with the standards and requirements of the planning authority for taking in charge. The development shall be maintained by the developer until taken in charge by the authority and shall not be operated or maintained by a private management company.

**Reason:** In order to comply with national policy in relation to the maintenance and management of residential estates, and to ensure that the development, when completed, can be taken in charge by the planning authority.

9. The landscaping scheme as shown on drg. no. 163402101 Rev.A submitted to the planning authority on the 4<sup>th</sup> day of July, 2017 shall be carried out within the first planting season following substantial completion of external construction works.

All planting shall be adequately protected from damage until established.

Any plants which die, are removed or become seriously damaged or diseased, within a period of [five] years from the completion of the development [or until the development is taken in charge by the local authority, whichever is the sooner], shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

**Reason:** In the interest of residential and visual amenity

10. (a) Prior to commencement of development, all trees, groups of trees, hedging and shrubs which are to be retained shall be enclosed within stout fences not less than 1.5 metres in height. This protective fencing shall enclose an area covered by the crown spread of the branches, or at minimum a radius of two metres from the trunk of the tree or the centre of the shrub, and to a distance of two metres on each side of the hedge for its full length, and shall be maintained until the development has been

completed.

(b) No construction equipment, machinery or materials shall be brought onto the site for the purpose of the development until all the trees which are to be retained have been protected by this fencing. No work is shall be carried out within the area enclosed by the fencing and, in particular, there shall be no parking of vehicles, placing of site huts, storage compounds or topsoil heaps, storage of oil, chemicals or other substances, and no lighting of fires, over the root spread of any tree to be retained.

**Reason:** To protect trees and planting during the construction period in the interest of visual amenity.

11. A management plan for the control of alien invasive plant species shall be submitted to and agreed in writing with the planning authority prior to commencement of development.

**Reason:** In the interest of visual amenity and to prevent the spread of alien plant species.

12. 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 and shall incorporate the recommendations of the bat report.

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

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

**Reason:** In the interest of urban legibility and to ensure the use of locally appropriate place names for new residential areas.

14. All service cables associated with the proposed development (such as electrical, communal television, telephone and public lighting cables) shall be run underground within the site. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development. All existing overhead cables crossing or bounding the site shall be undergrounded, at the developer's expense, as part of the site development works.

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

15. 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 and to ensure a proper standard of development.

16. Prior to commencement of development the developer shall submit, and obtain the written agreement of the planning authority to, 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 materials, and for the ongoing operation of these facilities.

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

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

**Reason:** In the interest of amenities and of public safety

18. Site development and building works shall be carried out only between the hours of 0800 to 1800 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

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

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

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

20. 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 by the planning authority 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

referred to An Bord Pleanála for determination.

**Reason:** To ensure the satisfactory completion and maintenance by the developer of the development until taken in charge.

21. 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.

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



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

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**Pauline Fitzpatrick**

**Senior Planning Inspector**

**January, 2018**