



An
Bord
Pleanála

Inspector's Report ABP-302331-18

Development	Demolition of an existing dwelling house and the construction of 9 no. five bedroomed dwelling houses along with all ancillary works.
Location	San Paula, Orchard Road, Cork
Planning Authority	Cork City Council
Planning Authority Reg. Ref.	18/37749
Applicant(s)	Dennis O'Brien Developments (Cork) Ltd
Type of Application	Permission
Planning Authority Decision	Grant, subject to 6 conditions
Type of Appeal	Third party -v- Decision
Appellant(s)	Orla Joyce & Michael McBride
Observer(s)	Shelia & Bridget Hyland
Date of Site Inspection	8 th November 2018
Inspector	Hugh D. Morrison

Contents

1.0 Site Location and Description	3
2.0 Proposed Development	3
3.0 Planning Authority Decision	4
3.1. Decision	4
3.2. Planning Authority Reports	4
4.0 Planning History.....	4
5.0 Policy Context.....	5
5.1. Development Plan.....	5
5.2. Natural Heritage Designations	5
6.0 The Appeal	5
6.1. Grounds of Appeal	5
6.2. Applicant Response	7
6.3. Planning Authority Response	8
6.4. Observations	8
6.5. Further Responses.....	9
7.0 Assessment.....	10
8.0 Recommendation.....	20
9.0 Reasons and Considerations.....	20
10.0 Conditions	20

1.0 Site Location and Description

- 1.1. The site is located towards the north western end of Orchard Road, which runs between College Road, to the east, and the northern end of Wilton Road (R641), to the west. This Road is a residential street composed of predominantly two-storey detached and semi-detached dwelling houses, which exhibit a variety of sizes and designs. To its north lies student accommodation and ancillary facilities, known as Brookfield Village, and a new-build housing development, known as The Grove.
- 1.2. The site itself is of regular shape and it extends over an area of 0.41 hectares. At present, this site accommodates a two-storey detached dwelling house, known as San Paula, which is sited centrally within its own grounds. This dwelling house is accessed off the eastern side of Orchard Road, clear of a bend in the same.
- 1.3. The site adjoins Brookfield Village, to the north and to the east, the dwelling houses at Nos. 14, 16, 17, and 18, to the south, and a triangular grass strip and a landscaped area, which forms part of The Grove, to the west. The accompanying boundary treatments comprise hedgerows and walls.

2.0 Proposed Development

- 2.1. The proposal would entail the following elements:
 - The demolition of an existing dwelling house (350 sqm) and ancillary structures (34 sqm),
 - The construction of 9 no. five bedrooomed dwelling houses (2047.9 sqm). Each of these dwelling houses would be detached and they would be of two storey form with habitable room accommodation in the roofscape providing a second floor level. These dwelling houses would be laid out in a row of 4 no. along the northern side of an on-site "T" shaped access road and a row of 5 no. along the eastern side. Forward of each dwelling house would be a pair of car parking spaces. Garden space would be to the rear and an area of communal open space would be laid out in the south western portion of the site.
- 2.2. Under further information and clarification of this information, the said communal open space was amended to allow for the provision of 3 no. roadside car parking spaces to compensate for the 3 no. that would be lost to ensure an adequate

southerly sightline along Orchard Road at the site entrance. Amendments were also made to the entranceway and to the design of the dwelling houses.

3.0 Planning Authority Decision

3.1. Decision

Following receipt of clarification of further information, permission was granted subject to 18 conditions.

3.2. Planning Authority Reports

3.2.1. Planning Reports

Further information was sought with respect to the Part V Exemption Certificate, land ownership query, dwelling house design details, omission of entrance gates, landscape scheme, Stage 1/2 Road Safety Audit, street lighting, and layout alterations to accord with DMURS.

Clarification of further information was sought with respect to the Part V Exemption Certificate, Stage 1/2 Road Safety Audit, omission of entrance gates, and dwelling house design details.

3.2.2. Other Technical Reports:

- Environment: No objection, subject to conditions.
- Drainage: No objection, subject to conditions.
- Irish Water: No objection, standard and site-specific notes attached.
- Roads Design: Following receipt of clarification of further information, no objection, subject to conditions.
- Transport and Mobility: No comments following receipt of clarification of further information.

4.0 Planning History

Pre-application consultation occurred in September 2017.

Part V Certificate of Exemption 18/1465 granted to shadow the current proposal.

5.0 Policy Context

5.1. Development Plan

Under the Cork City Development Plan, the site is shown as lying within an area that is zoned for residential, local services and institutional uses, wherein the objective is “To protect and provide for residential uses, local services, institutional uses and civic uses, having regard to employment policies outlined in Chapter 3.” Adjoining lands to the north lie within the UCC/College Road and Magazine Road ACA.

The CDP addresses the demolition of existing residential dwellings under Paragraph 16.78.

5.2. Natural Heritage Designations

Cork Harbour SPA (site code 004030)

Great Island Channel SAC (site code 001058)

6.0 The Appeal

6.1. Grounds of Appeal

Orla Joyce & Michael McBride of “St. Louis”, 18 Orchard Road

- The applicant’s legal interest in the triangular portion of land forward of the curtilage to the dwelling house on the site but within the red edge is contested and hence its inclusion within the application site.

Under application 21614/97 for San Paula the owner of this residential property was confirmed as not being the owner of the said triangular portion of land.

The ownership of the triangular portion of land was raised under further information and a deed of transfer was submitted indicating that it is being transferred from the owner of San Paula to the applicant. This deed is subject to a legal critique

Section 34(1) of the Planning and Development Act, 2000 – 2018, states that the Board must be satisfied that an application has been made in accordance with Regulatory provisions. Where such compliance is absent, a refusal is warranted (cf. *McCallig v An Bord Pleanala*).

The proposed access to the site would traverse the triangular portion of land. As there is no evidence that the venter of San Paula owns this portion of land, the applicant has not complied with the said Regulatory provisions and so the proposal should be refused.

- The appellants' dwelling house is being extended to the rear and in a northerly direction. Proposed dwelling house No. 9 would lie beyond the foot of the rear garden. Given this garden's orientation, its extremity has the greatest amenity value and yet this would be the portion most affected by the presence of No. 9 in terms of over-bearing and over-shadowing.

Under further information, the applicant was requested to reduce the overall height of No. 9. A nominal reduction ensued. A further reduction would be required by draft Condition 3, which states that floor to ceiling heights should be reduced on the ground and first floors from 2.7m to 2.5m. these measures would be inadequate to protect the appellants' residential amenities.

In the light of the foregoing, the appellants' request that No. 9 be omitted from the proposal and the site thus released laid out as open space.

Without prejudice to the said request, if a grant of No. 9 is contemplated, then this should be on the basis of a two-storey dwelling house, set 6m back from the common boundary and exhibiting the minimal allowable floor to ceiling heights.

Window openings on the presenting side elevation would also affect residential amenity. These should be omitted, as obscure glazing would not address the perception of being overlooked.

The appellants' express concern that the proposal may adversely affect the roots of two walnut trees in their rear garden

- Attention is drawn to the draft permission, which omits the entrance gates and requires that the loss of 3 on-street car parking spaces be compensated for by

the provision of 3 off-street car parking spaces. These spaces which would be sited in the area of communal open space, which would thus be reduced in size. The said omission would, however, cause the communal open space to become public open space with a corresponding loss of security and privacy to existing residential properties to the south.

- The proposal is critiqued in the light of DMURS and draft Condition 16, which requires compliance with the same.
- The adequacy of the proposed private open space is questioned in terms of its quantity and quality.
- Without prejudice to the foregoing grounds of appeal, if a grant is contemplated, then a condition requiring that the dwelling houses be used as single family dwellings is requested.

6.2. Applicant Response

- The applicant's solicitors' advice that the venter has stated in an affidavit that she has been in occupation of the triangular portion of land for longer than the 12 years necessary to establish adverse possession. She is thus in a position to convey the same to the applicant.

Neither the appellant or anybody else has made a claim on this portion of land. If one were to arise, then this would be a civil matter.

- With respect to the recommended clearance area for the roots of walnut trees, the applicants' extension may have encroached upon the same.

Nevertheless, the applicant undertakes to use an arborist to determine if the root system has encroached into the subject site and, if so, it would be protected.

- Once all of the revisions to No. 9 are allowed for the presenting side elevation would be reduced in its bulk and it would appear akin to a conventional two storey one, thereby being compatible with the amenities of the appellants' residential property. Clearance distances would be adequate to safeguard neighbour privacy and upper floor windows would be obscure glazed and the common boundary treatment raised in height and augmented by planting.

The proposal would be a well-considered response to the locality, which does not simply comprise conventional dwelling houses but apartments and student accommodation, too.

- While the compensatory car parking would reduce the available public open space, it would still amount to the required 10% of the site area. The CDP's advice that "generally no rear boundaries should face onto public open space" is, by its own admission, not applicable to every situation. Existing planting along the boundary in question would be retained and augmented and so neighbours would not experience any great change over the *status quo*.
- Proposed sightlines at the entrance to the site would benefit from the relocation of 3 on-street car parking spaces to within the site. The laying of double yellow lines in this respect would strongly discourage continuing on-street parking, which would in any event remain available further to the south.
- Adequate private open space, under the CDP, would be provided to each proposed dwelling house, regardless of whether side passageways are included in calculations or not.
- The proposed dwelling houses would be used by large families. They are designed to accord with relevant national planning guidelines for the same. No condition would be needed to restrict their future use, as they would not be designed to provide student accommodation.

6.3. Planning Authority Response

No further comments.

6.4. Observations

(a) Sean O Conaill of 2 The Grove

- The case planner's report is critiqued insofar as it refers to an unknown "Orchard House Development" and it claims that information was available at all times on the web site, which the observer found not to be so.

- The proposed dwelling houses would be three-storeys high and so they would be overbearing with respect to The Grove, to the north, and Orchard Road, to the south.
- The triangular portion of land identified by the appellants is evidently not in the ownership of the venter of San Paula and its loss would be a dis-amenity to the locality.
- The usage condition invited by the appellants' is reiterated.

(b) Shelia & Bridget Hyland of "Glehera", 17 Orchard Road

- The proposed siting of public open space adjoining the northern boundary of the observers' residential property would jeopardise their privacy and security.
- No. 9 would continue to overlook their property.
- Consequently, their property would be de-valued.

6.5. Further Responses

The appellants have responded to the applicant's response.

- They comment that the affidavit cited by the applicant concerning the assertion of her title to the triangular portion of land falls short of being evidence for this assertion and the formal registration of the same. Accordingly, as before, the appellants state that the Board should refuse permission as the applicant has not established that it has sufficient legal interest in this portion of land or that it has the consent of someone who does have such interest.
- Exploration to establish the extent of the root systems that accompany the walnut trees should occur prior to a decision on the application, so that the implications of such exploration can be fully taken account of in the development. The Board is thus requested to make this matter the subject of a request for further information.
- The appellants reiterate their concerns that the dwelling house proposed for plot 9 would be effectively a three-storey one, the presence of which so close

to the northern boundary of their rear garden would be oppressive. They also reiterate their concerns about overlooking.

- The applicant's critique of the appellant's visual presentation of the proposal, to the effect that it omits proposed landscaping is countered by the observations that the narrow strip of land to the southern side of the dwelling house proposed for plot 9 would limit landscaping opportunities and such landscaping may in any event fail or be removed.
- The siting of the proposed open space, which would function as public open space (POS), should, under Section 16.61 of the CDP, be sited next to the existing POS at The Grove, i.e. this open space should be sited in the north western portion of the site. Furthermore, the introduction of the car parking spaces would reduce the informal surveillance available from the dwelling houses opposite of the proposed POS.
- The inclusion of side passageways in the calculation of usable private open space is inadmissible.
- The suggested condition would be appropriate. In this respect attention is drawn to appeal PL28.247698, under which an extension to Brookfield Village was refused on the grounds that noise and disturbance arising from densification would be injurious to residential amenity.
- The appellants critique under DMURS of the proposal is reiterated and attention is drawn to the prospect that, unlike the existing on-street car parking spaces, the proposed replacement ones would not be the subject of City Council control and so to that extent they would not be comparable with the forfeited spaces.

7.0 **Assessment**

7.1. I have reviewed the proposal in the light of the CDP, the submissions of the parties, and my own site visit. Accordingly, I consider that the application/appeal should be assessed under the following headings:

- (i) Legalities,
- (ii) Land use and density,

- (iii) Development standards,
- (iv) Visual and residential amenity,
- (v) Traffic, access, and parking,
- (vi) Water, and
- (vii) Screening for EIA and AA.

(i) Legalities

- 7.2. The subject site encompasses the curtilage of the dwelling house known as San Paula and a triangular piece of land that lies between the front boundary to this curtilage and the carriageway to Orchard Road. The appellants and observer (a) question the applicant's claim to own this piece of land.
- 7.3. During my site visit, I observed that the triangular piece of land comprises the footway that accompanied the eastern side of the aforementioned carriageway and a grassed area. The footway is used by the public and the grassed area "reads" as a spare piece of land. Historical information on the Ordnance Survey Ireland's website suggests that it may formerly have been continuous with the lands to the north that are now comprised in the housing estate known as The Grove. Under the proposal, the new access to the site would traverse the southern portion of the grassed area and so this area would be needed to afford satisfactory access to the site.
- 7.4. Under further information, the applicant was requested to clarify its ownership/legal interest in the entire site. A copy of a deed dated 8th January 2018 between the vender and the purchaser (applicant) pertaining to the said triangular piece of land, which was registered on 23rd March 2018, was duly submitted and noted by the Planning Authority.
- 7.5. At the appeal stage, the appellants questioned the adequacy of the said deed to establish sufficient legal interest for the purpose of Article 22(2)(g) of the Planning and Development Regulations, 2001 – 2018. They also recall that during the course of an earlier application (21614/97), the vendor as then applicant reverted to the existing access to the site as the proposed one would have traversed the triangular piece of land, which she then did not own or maintain.
- 7.6. The applicant has responded by drawing attention to an affidavit sworn by the vender on 8th January 2018, which states that she acquired San Paula on 20th

August 1997 and that since then she has used the triangular piece of land in conjunction with her use and enjoyment of the dwelling house “without force, secrecy or permission”. In this respect attention is drawn to grass cutting activities and to the repair of a sewer, which serves her dwelling house and which runs underneath the said piece of land. The affidavit goes on to state that she is in undisputed possession of the land, which is not adversely occupied by anyone else.

- 7.7. The appellants state that, contrary to the vender’s assertion, the said sewer repair was contested by several neighbours. They also question whether grass cutting activities alone would provide a sufficient basis to establish adverse possession.
- 7.8. From the information before me, uncertainty surrounds the historic ownership of the triangular piece of land. The only person to have claimed ownership is the vender, who has sold this land to the applicant on this basis. This claim is one of adverse possession, the relevant period for which is in excess of 12 years. It is contested by the appellants. However, no one else is cited as being the owner. In these circumstances and with reference to Article 22(2)(g) of the aforementioned Regulations, the rhetorical question can reasonably be posed as to whose consent the applicant should seek to make the current application. Other matters raised by the appellants are civil ones.
- 7.9. I conclude that there are no legal impediments to the Board proceeding to assess and determine the current application/appeal in the normal manner.

(ii) Land use and density

- 7.10. The site presently accommodates a single dwelling house and it lies within an area that is predominantly in residential use. Under the proposal, the existing dwelling house would be demolished, and 9 no. dwelling houses would be constructed in its place. Under the CDP, the site is zoned for residential, local services and institutional uses and so there is, in principle, no objection to its continued residential use.
- 7.11. Section 16.78 of the CDP addresses the demolition of existing dwelling houses. I have reviewed the criteria set out in this Section. The first two of these criteria relate to buildings that pre-date suburbia and to ones that are of architectural merit. The existing dwelling house on the subject site does not pre-date suburbia and, while of attractive design, it has no particular architectural merit. The second two of these criteria relate to the loss of larger housing and the loss of embodied energy, which

inevitably occurs when buildings are demolished. The existing dwelling house has a floorspace of 350 sqm and it would be replaced by 9 no. dwelling houses with a total floorspace of 2047.9 sqm. Thus, while a large dwelling house would be lost, it would be replaced by 9 no. substantial dwelling houses. Likewise, while demolition would result in the loss of embodied energy, the proposed redevelopment of the site for 9 no. dwelling houses would represent a more sustainable use of the site than exists at present. I, therefore, consider that the proposed demolition of the existing dwelling house would accord with Section 16.78 of the CDP.

- 7.12. The site has an area of 0.41 hectares. Under the proposal, each use of land that is envisaged would be admissible for the purpose of calculating net residential density in accordance with Appendix A of the Sustainable Residential Development in Urban Areas Guidelines. Thus, the proposed 9 no. dwelling houses would be equivalent to almost 22 dwellings to the hectare.
- 7.13. Under Sections 16.40 – 16.42 of the CDP, minimum residential densities of 35 – 50 dwellings per hectare are sought for the suburbs. On sites in excess of 0.5 hectares, higher densities again are considered to be appropriate, as such sites afford the opportunity for development of a distinctive character to be pursued.
- 7.14. The current proposal would have a density that would be less than the aforementioned range. Nevertheless, it would be considerably higher than that of the surrounding established residential area, including the more recent housing estate to the north known as The Grove. I recognise that the size of the site is such that some deference needs to be paid to the existing pattern of development and so, in these circumstances, I consider that the density that would be achieved can be acceded to.
- 7.15. Under Section 16.44, new residential development within Zone 3, i.e. the zone within which the subject site lies, should comprise a mix of dwelling types. Under the proposal, each of the dwelling types would be the same, i.e. detached, with three floors and five bedrooms, albeit they would vary in floorspace between 218.6 sqm and 227.5 sqm and in certain external features. Again, I consider that the size of the site and its context are such that the largely uniform design approach is appropriate in this case and so should be acceded to.
- 7.16. I therefore conclude that the proposed redevelopment of the site for continuing residential use is acceptable in principle from a land use perspective and that, given

the site's size and the pattern of development within its context, the density that would be achieved and the largely uniform design of dwelling house that would result can be acceded to.

(iii) Development standards

- 7.17. The Quality Housing for Sustainable Communities Best Practice Guidelines do not address five-bedroomed dwelling houses. Nevertheless, if the approach adopted by these Guidelines is extrapolated the proposed dwelling houses would accord in their room sizes and widths with these Guidelines.
- 7.18. The appellants express concern that the proposed dwelling houses would be capable of being used to provide student accommodation and that a condition should be attached to any permission prohibiting such usage. The applicant has responded by stating that these dwelling houses have been designed to be used by large families and so the sought-after condition would be unreasonable.
- 7.19. I note that the proportion of living space to bedroom space in each of the proposed dwelling houses would lend itself to occupation by large families or adult households that share facilities. I note, too, that these dwelling houses would not be designed to provide the type of self-contained accommodation that is normally referred to as "student accommodation" and is akin to houses in multiple occupation (HMO) type accommodation. Under planning legislation, it is only possible to distinguish between dwellings that are occupied by single households and HMOs. This distinction does not need to be conditioned and any condition seeking to distinguish between different kinds of households would be *ultra vires*.
- 7.20. The appellants also express concern that the proposed provision of private open space would be unsatisfactory from quantitative and qualitative perspectives. The applicant has responded by insisting that adequate open space would be provided.
- 7.21. Quantitatively, under Table 16.7 of the CDP, 60 – 75 sqm of private open space should accompany five-bedroomed detached dwelling houses in the suburbs. The proposed rear gardens would in each case be compliant. Qualitatively, the rear gardens on plots numbered 1 – 4 would be north facing, while the rear gardens on plots numbered 5 – 9 would be east facing. The former orientation would not be ideal. It would however be relieved by the adjoining pairs of passageways between the detached dwelling houses that would act as light shafts and the fact that plots 1

and 4 would be relatively open to the east and to the west. The public open space on the southern boundary of the site would also play a role insofar as it would have a southerly aspect.

7.22. I conclude that the proposal would meet all relevant development standards.

(iv) Visual and residential amenity

7.23. The appellants express concern over the size, design and siting of the dwelling house proposed for plot 9. They draw attention to the proximity of this dwelling house to the southern boundary of the site and hence to the foot of their rear garden at No. 18 Orchard Road and to two walnut trees adjacent to this boundary. They draw attention, too, to the presenting gable side elevation and the openings within it and to a rooflight that would be installed in an accompanying south facing roof plane. They consider that the scale of this elevation and the said openings would cause it to be overbearing and the cause of real and perceived overlooking.

7.24. The applicant responds by drawing attention to the amendments to the said elevation that were made under further information and to the ones that would arise under condition 3 attached to the draft permission. Thus, the size and shape of this elevation was altered to that of a conventional gable, i.e. its flat top was omitted, and one window at second floor level was omitted, albeit with the omission of a rear dormer window the aforementioned rooflight was introduced. Its maximum ridge height contracted from 10.55m to 9.60m and, under condition 3, a further contraction would occur with the reduction of ground and first floor ceiling heights from 2.7m to 2.5m, i.e. 9.20m would result.

7.25. The separation distance between the rear elevation of the dwelling house at No. 18 and the side elevation of the proposed dwelling house for plot 9 cited on the submitted plans is 22.56m. This distance does not allow for a single storey extension that is being constructed to the rear of No. 18.

7.26. The conventional separation distance between corresponding first floor habitable room windows in suburban dwelling houses is 21.3m. Where such windows correspond with elevations that are either blank or have non-habitable room windows at first floor, the conventional separation distance is 12.2m. Under the proposal, the latter rather than the former set of circumstances would pertain and so the proposed separation distance of 22.56m would *prima facie* be more than adequate.

- 7.27. I acknowledge that the proposed dwelling house on plot 9 would be of narrow width and deep depth and so the presenting southern side elevation would be relatively long at 11.5m (first floor level) and it would include a gable. The first floor window and the second floor window (within the gable) in this elevation would serve a landing and a stairs, i.e. non-habitable space. The rooflight would be installed c. 1.5m above floor level and so even when open it would not facilitate horizontal views out. Accordingly, these openings would not lead to appreciable overlooking. The specification of obscured or patterned glazing to the circulation space windows would further relieve any sense of perceived overlooking. Such glazing could be conditioned.
- 7.28. Cross section B-B on drawing no. 17191/P/005 revision P3 shows the relationship that would exist between the dwelling house at No. 17 Orchard Road, i.e. the other semi-detached dwelling house that forms a pair with the appellant's one at No. 18, and the proposed dwelling house on plot 9. This cross section shows that, while the ground floor to ridge height of No. 17 is 8.48m and that of the proposed dwelling house would be 9.45m, the respective ridge heights would be 22.81m and 22.20m, due to the difference in site levels. This difference would thus serve to relieve the overbearing that the appellants are concerned about.
- 7.29. The proposed dwelling house on plot 9 would be set back between 2.7m and 3.5m (front to back) from the southern boundary of the site and the appellant's rear garden. The two walnut trees in this garden are adjacent to the said boundary and so the appellants express concern that their root systems may be affected by the siting of this dwelling house. The applicant has responded by stating that an arborist would check on any existing encroachment into the site and, if this has occurred, then the roots would be protected. The applicant expresses the view that such checking should be undertaken prior to any decision on the proposal as it may have implications for the siting of the proposed dwelling house on plot 9.
- 7.30. During my site visit, I observed that the larger of the two walnut trees is positioned at a point where the set-back between the dwelling house and the southern boundary would be in the region of 3.5m. Thus, there would be considerable scope to continue to accommodate any root encroachment, which may exist, and build as proposed. In these circumstances, I consider that the approach nominated by the applicant would suffice.

- 7.31. The proposed landscaping scheme envisages that new tree planting would occur along the aforementioned strip of land between the proposed dwelling house on plot 9 and the southern boundary of the site. Such planting would, in time, soften/screen the southern side elevation in question and relieve further the overbearing that is of concern to the appellants.
- 7.32. The observers also express concern that the proposal would have an adverse impact upon the amenities of their residential properties. However, as in both cases their dwelling houses would be at considerably greater removes from the proposed ones than that of the appellants, I do not consider that their concerns can be upheld.
- 7.33. The appellants and the observers draw attention to revisions to the proposal whereby it would be ungated and car parking spaces would be sited alongside the on-site access road, by way of replacement for the on-street car parking spaces that would be lost to ensure an adequate southerly sightline from the new entrance. These measures would mean that the proposed area of communal open space would be available for use by the public. Given that this space would abut the southern boundary of the site and rear gardens beyond, it would have security and privacy implications for the residential properties concerned. Section 16.61 of the CDP states that “Generally no rear boundaries should face onto public open space”.
- 7.34. I note that the open space in question would represent a relatively small portion of the site. I note, too, that existing trees along the southern boundary would be retained and that the space itself would be landscaped. Given these factors I anticipate that its use would be limited to passive recreation and that residents of the proposed dwelling houses, as distinct from the public at large, would be likely to be the main users of it. Informal surveillance of the space would be high as the principal elevations of a majority of the proposed dwelling houses would overlook it. In these circumstances, I consider that security and privacy issues would be allayed and that an exception to the strand of Section 16.61 cited above can be acceded to.
- 7.35. I conclude that the proposal would be compatible with the visual and residential amenities of the area.

(v) Traffic, access, and parking

- 7.36. The proposal would entail the replacement of an existing dwelling house upon the site with 9 no. new dwelling houses. A corresponding increase in traffic in attendance

at this site is thus in prospect. In order to facilitate ease of access/egress to the site, the existing entrance/exit would be closed and a new one would be formed in a slightly more northerly position on the frontage of the site with Orchard Road.

- 7.37. The new access point to the site was revised under further information in order to improve both the alignment of Orchard Road and the sightlines available to exiting drivers. In relation to the former, the bend in this Road to the west of the site is presently accompanied by a wider portion of carriageway in the vicinity of where the new access would be sited. As originally submitted, this wider portion would have been retained. However, as revised it would be removed and the footway widened. The new access would be laid out in a perpendicular position to the realigned carriageway and it would be accompanied by sightlines with a x dimension of 2m and northern and southern y dimensions of 55.5m and 61m, respectively. The southern sightline would necessitate the removal of 3 no. on-street car parking spaces, which would be compensated for by the provision of 3 no. such spaces within the site.
- 7.38. The appellants critique the proposal in the light of DMURS. However, as the baseline of the existing Orchard Road is not in conformity with DMURS, it becomes a question of judgement as to whether the proposed realignment would, under the scenario of the proposed new access for 9 no. dwelling houses, be better or worse from a road safety perspective. I note that the proposal was the subject of a Stage 1/2 Road Safety Audit and I note, too, the support of the City Council's engineering consultee. I therefore consider that the said realignment would be appropriate.
- 7.39. The appellants also critique the proposed compensatory car parking spaces on the basis that they would not be equivalent to the existing ones as they would not be under the City Council's control. However, as the on-site access road would be "taken-in-charge", the opportunity would exist for them, as on-street spaces, to come under the Council's control.
- 7.40. Each of the proposed dwelling houses would be accompanied by two off-street car parking spaces for residents and so CDP standards in this respect would be complied with. Visitor parking would rely upon the aforementioned on-street spaces.
- 7.41. The proposed on-site access road would be designed as a home zone and so the needs of pedestrians would be provided for.

7.42. I conclude that the proposed access and parking arrangements for the site would be appropriate from traffic management and road safety perspectives.

(vi) Water

7.43. The proposal would be served by the public water mains and the public sewerage system. Connections to these utilities in Orchard Road would be made. The public sewerage system is a combined foul and storm water one. An attenuation tank would be installed as part of the on-site storm water drainage system to ensure that the existing surface water run-off rate from the site can be maintained.

7.44. Under the OPW's flood information maps, the site is neither the subject of any identified flood risk nor the scene of any past flood event.

7.45. I conclude that the proposed water supply and drainage arrangements for the site would be satisfactory. The site is not the subject of any identified flood risk.

(vii) Screening for EIA and AA

7.46. The proposal is for 9 no. dwelling houses. Under Items 10(b)(i) and (iv) of Part 2 of Schedule 5 to Article 93 of the Planning and Development Regulations, 2001 – 2018, this proposal would be of a type that could potentially be the subject of a sub-threshold EIA. Accordingly, I have undertaken a preliminary examination of it and I have concluded that there is no real likelihood of significant effects on the environment and so EIA is not necessary.

7.47. The site is neither in nor near to a Natura 2000 site. (The nearest such sites are the Great Island Channel SAC (site code 001058) and Cork Harbour SPA (site code 004030)). This site is a fully serviced one in an existing urban area and so its redevelopment would not be likely to have any significant effects on the conservation objectives of the said Natura sites or any other such sites.

7.48. Having regard to the nature and scale of the proposal, the nature of the receiving environment and the proximity of the nearest European site, no Appropriate Assessment issues arise and it is not considered that the proposal 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. That permission be granted.

9.0 Reasons and Considerations

Having regard to the Cork City Development Plan 2015 – 2021, it is considered that, subject to conditions, the proposal for the redevelopment of the site for continuing residential use would comply with both Section 16.78 of the Development Plan on the demolition of existing dwelling houses and the zoning objective for this site. The density of development proposed would be appropriate to the size of the site and the pattern of surrounding development. Likewise, the type and size of residential development proposed would be appropriate. The proposal would comply with relevant development standards and so it would afford a satisfactory standard of amenity to future residents. This proposal would be compatible with the visual and residential amenities of the area. Its access arrangements and water supply and drainage arrangements would be satisfactory. No significant effects on the environment would arise and no Appropriate Assessment issues would arise. The proposal would thus accord 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 8th day of May 2018 and the clarification of this information submitted on the 19th day of June 2018, 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. The proposed development shall be amended as follows:
 - (a) The dwelling house proposed for plot 9 shall have floor to ceiling heights on the ground and first floors of 2.5m.
 - (b) The windows in the southern elevation that serve the first-floor landing and the second floor stairs shall be fitted with obscure or patterned glazing and, thereafter, such glazing shall be retained insitu.

Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of residential amenity.

3. Prior to the commencement of development, an arborist shall establish whether roots from two walnut trees adjacent to the south east corner of the site lie within the site and, if so, measures for their protection, during the construction phase, shall be identified. A report on this matter shall be submitted to the Planning Authority.

Reason: In order to safeguard these trees in the interest of residential amenity.

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

Reason: In the interest of visual amenity.

5. Water supply and drainage arrangements, including the [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.

6. The internal road serving the proposed development, including parking areas, footpaths and kerbs, shall comply with the detailed standards of the planning authority for such road works.

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

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

Reason: In the interests of amenity and public safety.

8. Proposals for a 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 street 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.

9. The development hereby permitted shall be carried out and completed at least to the construction standards set out in the "Minimum Engineering Requirements for Residential Site Development Works" issued by Cork City Council in October 2010. Following completion, the development shall be maintained by the developer, in compliance with these standards, until taken in charge by the planning authority.

Reason: To ensure that the development is carried out and completed to an acceptable standard of construction.

10. Site development and building works shall be carried out only between the hours of 0800 to 1900 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.

11. 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 off-site disposal of construction/demolition waste.

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

12. Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the “Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects”, published by the Department of the Environment, Heritage and Local Government in July 2006.

Reason: In the interest of sustainable waste management.

13. The landscaping scheme shown on drg no. 17191/P/004 revision P1, as submitted to the planning authority on the 31st day of January 2018 shall be carried out within the first planting season following substantial completion of external construction works.

In addition to the proposals in the submitted scheme, the following shall be carried out: Any amendments to the landscaping scheme that may arise from compliance with condition 3 of this order.

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.

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

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

15. The entrance to the site shall be ungated at all times.

Reason: In order to promote permeability.

16. 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 local authority of roads, footpaths, watermains, drains, public open space and other services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion or maintenance of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

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

17. The developer shall pay to the planning authority a financial contribution of €106,015 (one hundred and six thousand and fifteen euro) in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development

Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. The application of any indexation required by this condition 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.

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.

Hugh D. Morrison
Planning Inspector

4th December 2018