



An
Bord
Pleanála

Inspector's Report ABP - 303221 - 18.

Development	Construction of 87 houses, 2 apartments, a crèche and all ancillary site development works.
Location	Castleredmond, Midleton, Co Cork
Planning Authority	Cork County Council
Planning Authority Reg. Ref.	18/05691
Applicant(s)	3dnr (Charleston)Ltd
Type of Application	Permission.
Planning Authority Decision	Grant.
Type of Appeal	3 No. Third Party
Appellant(s)	<ol style="list-style-type: none">1. Patrick and Vera Foley2. Camilla O'Connor and others3. Patrick and Deborah Dunne
Observer(s)	<ol style="list-style-type: none">1. Sinead Morrissey
Date of Site Inspection	6 th April 2019
Inspector	Fiona Fair.

1.0 Site Location and Description

- 1.1.1. The site, with a stated area of 4.5 ha, is located at the south west corner of the junction of the Whitegate Road (R630) and the Dark Road (L3623) in Ballinacurra, Castleredmond, Midleton County Cork.
- 1.1.2. Ballinacurra is a small harbour village on the outskirts of Midleton, County Cork, it lies to the south of the N25 and about 18 km south east of Cork city. The village is located at the confluence of the Owenacurra River and the east channel of Cork. The area is mainly residential within the 50 Km / hr speed limit zone and a walk of Midleton town.
- 1.1.3. The subject lands are in agricultural use within the grounds of / associated with Charlestown House (which does not form part of the planning application). Charlestown House is included in the National Inventory of the Architectural Heritage, Registration Number; 20907625 (Regional Rating). The landscape both historically and presently consists of mature woodlands with amenity paths to the edges of the development site, with large grassed areas, referred to as the 'northern' and 'southern' fields, grassed tennis courts are located to the south west corner of the 'southern' field. A substantial masonry wall surrounds the site to the north and east. The site is secluded and walled, access for the site visit was gained via the dedicated gated entrance to Charlestown House.
- 1.1.4. Charlestown House is set on slightly raised roughly semi-circular platform to the east of the site, within its own immediate garden area of 2 acres. Charlestown House and its immediate gardens will remain as a single private residence independent of the proposed development.

2.0 Proposed Development

The proposed development comprises a residential development of:

- 87 no. 2 storey dwelling houses,
 - 21 no. 4 bedroom detached houses, 25 no. 4 bedroom semi-detached houses, 30 no. 3 bedroom semi-detached houses, 11 no. 3 bedroom townhouses
- 2 no. apartments,

- 2 no. 1 bedroom apartments which are located on the 1st floor of the crèche building.
- A 147.7 sq. m crèche and
- All ancillary site development works.
 - Improvement works to the junctions of Dark Road/Bailick Road and Dark Road/R630,
 - A new public footpath along the southern side of Dark Road and a pedestrian crossing on the R630.
 - Access to the proposed development will be via a new entrance from Dark Road, with a pedestrian access proposed to the R630.

The following reports were submitted with the application:

- Preliminary Landscape Strategy / Landscape Design Report
- Transportation Assessment Report and independent RSA
- Architectural Design Statement
- Planning Statement
- Part V Proposal
- Infrastructure Report
- Outdoor Lighting Report
- Appropriate Assessment Screening Report
- Ecological Impact Statement
- Winter Bird Survey
- Photomontage Methodology Report
- Visual Impact Assessment

3.0 Planning Authority Decision

3.1. Decision

Following a request for Additional Information with respect to:

1. Layout
 - Separation distances between houses
 - Removal of trees
 - Dwelling number 11
 - Boundaries to POS
 - Phasing approach
 - Car parking spaces
2. Heritage
 - Contemporary design approach shall be adopted
 - A limited palette of materials
 - Edwardian architectural details omitted
3. Roads
 - Clarification of design and finish on the 4.8 intermediate access roads
 - Sightlines
 - Design of pedestrian / junction access onto the R630
 - Clarification of junction access / raised table onto the Balick road
4. Footpaths
 - Clarify the dimensions of the footpaths on the 4.8 intermediate access roads
 - Clarify the dimension of the footpaths on the 5.5 feeder roads
 - Dark Road footpath to be 2.0 m wide with public lighting along its full length
5. Surface water
6. Environment
 - Construction environmental management plan (CEMP) required.

7. Lighting

Planning Permission was granted subject to 35 number conditions. Conditions of note include:

C3. Special contribution of €71600.00 in respect of works to be carried out for the provision of (a) to facilitate the construction of a new slip road to the Lakeview Roundabout (b) to facilitate construction of additional traffic calming measures on the Dark Road.

C.5 Bond

C.14 A minimum of 2 no. 5m x 2.5m parking spaces shall be provided for each residential unit.

C.18 Internal traffic management plan

C.19 The finished levels and gradients of the proposed open space shall be to the satisfaction of the p.a.

C.22 all external boundaries to public areas shall be solid blockwork walls, not timber fences.

C.23 Adherence to construction traffic management plan

C. 27 Adherence to Environmental, construction and waste management plan

C. 28 construction activities shall be carried out such that no dust or noise nuisance is caused.

C.32 Archaeologist to be employed

C.33 Section 96 agreement

C.35 public road improvement works outlined on documents received on the 12th October 2018 are completed prior to occupation of any dwelling house.

3.2. Planning Authority Reports

3.2.1. Planning Reports

- There are a number of planning reports on file, the final report prior to grant of permission, dated 21/11/18, is satisfied that the further information submitted is satisfactory.
- The planning authority report notes that from a macro perspective, the East Cork Municipal District Local Area Plan sets out growth targets for the Midleton

settlement. It is envisaged that approx. 5200 new dwelling houses will be added by 2022.

3.2.2. Technical Reports (subsequent to F.I.)

- Environment Department: No objection subject to condition
- Traffic and Transportation Department: No objection subject to condition
- Area Engineer: No objection subject to condition
- Estates Engineer: No objection subject to condition.
- Public Lighting: No objection subject to condition.
- Housing Officers Report: No objection
- Conservation Officer: No objection.
- County Archaeologist: No objection subject to condition.

3.2.3. Other Technical Reports

- Irish Water: No objection subject to conditions
- Inland Fisheries Ireland (IFI): No objection subject to condition. IFI request that none of the residences are occupied until such time as the WWTP is fully upgraded and operational.

3.3. Prescribed Bodies

- 3.3.1. The file was referred by the Board to the Heritage Council and DAU. A report was forthcoming from DAU Department of Culture, Heritage and the Gaeltacht: No objection subject to condition.

3.4. Third Party Observations

- 3.4.1. A number of third-party submissions were received, incl. one from An Taisce (raises concerns that the development which would result in the capacity of the WWTP being exceeded may contravene Objective WS 3-1 (b) . The issues raised are similar to those raised in the third-party appeal, summarised in detail, below.

4.0 Planning History

- 4.1. **Reg. Ref. 03/6851** Planning Permission refused for construction of a vehicular entrance to land.
- 4.2. **Reg. Ref. 04/1962** Planning Permission granted for construction of a vehicular entrance.

5.0 Policy Context

- 5.1.1. National Planning Framework
- 5.1.2. Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities, 2015
- 5.1.3. Sustainable Residential Development in Urban Areas, 2009
- 5.1.4. Quality Housing for Sustainable Communities, 2007
- 5.1.5. Design Manual for Urban Roads and Streets (DMURS), 2013
- 5.1.6. Childcare Facilities – Guidelines for Planning Authorities'
- 5.2. **Local Policy**
- 5.2.1. **Cork County Development Plan 2014**

Objective HOU 4-1 – Medium 'A' density residential development will be applicable in city suburbs, larger towns over 5,000 population and rail corridor locations and should generally be between 20-50 dwellings per hectare for areas zoned medium density.

In terms of recreation and amenity:

Objective SC 5-2 - a) Public Open Space within Residential development shall be provided in accordance with the standards contained in 'Cork County Council Recreation & Amenity Policy', the 'Guidelines on Sustainable Residential Development in Urban Area' and 'Making Places: a design guide for residential estate development. Cork County Council Planning Guidance and Standards Series Number 2'.

b) promote the provision of high quality, accessible and suitably proportioned areas of public open space and promote linking of new open spaces with existing spaces to form a green infrastructure network.

Objective SC 5-4 –‘seek opportunities to improve the quality and capacity of existing recreation and amenity facilities, through initiatives with both public and private sector (sports governing bodies, local community partnerships and private development proposals) and where appropriate the Council will use its powers under Section 48 of the Planning and Development Act 2000 to require development levies to achieve the enhancement of these facilities.

5.2.2. The Midleton Electoral Area Local Area Plan 2011 Vol 1 2nd Ed Jan 2015

The site is located within the Midleton environs development boundary. The northern portion of the site is zoned ‘R-05’: ‘Medium A Density Residential Development’ with the southern portion of the site zoned ‘Existing Built-up Area’.

Section 2.4.17 Residential Areas as it relates to Specific Objective No. R-05 states: Medium A density residential development. Approx. area (ha) 1.6

5.2.3. East Cork Municipal District LAP 2017

The northern section of the site is zoned MD R-05 under the provisions of the East Cork Municipal District LAP 2017.

‘Medium A Density Residential Development. Proposals should take cognisance of the period property in the near vicinity and should include detailed landscaping proposals for the site. The development shall also include a detailed traffic and transportation assessment and road safety audit’.

The remainder of the site is zoned as ‘existing built up area’ under the provisions of the LAP.

Please note 'Medium A' as set out under the current CDP relates to a density in the area of 20 – 50 dwellings per / ha.

5.2.4. Midleton Town Development Plan 2013

It is the strategic aim of the Midleton Town Development Plan to 'realise the target growth in population for the town and environs to 23,735 by 2020 and securing strong growth in the population of the town council area.'

The Plan envisages over 8000 new dwelling houses by 2020.

Table 2.2 Midleton Housing Demand and Residential Land Supply, Midleton Core Strategy 2011-2020, envisages a household requirement of 6,685 units in the Midleton Town Council and Environs area up to 2020.

5.3. Natural Heritage Designations

- 5.3.1. The Great Island Channel SAC (site code 001058) is located 30 m south of the appeal site. The Blackwater River SAC (Cork/Waterford) (site code 002170) is located 14.92 Km north west of the appeal site. Cork Harbour SPA (site code 004030) is located <30m south of the appeal site and Ballycotton Bay SPA (site code 004022) is located 11.10 Km to the south east.

5.4. Environmental Impact Assessment (EIA)

- 5.4.1. Having regard to the nature and scale of the proposed development, the nature of the receiving environment and proximity to the nearest sensitive location, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

6.0 The Appeals

- 6.1.1. Three number third party appeals have been submitted. They are collectively summarised under the following headings:

Density

- Additional large-scale development in an over developed area

Amenities

- There are no parks, playgrounds, school, community facilities, cycle paths walkways or even footpaths in some parts.

Services

- Water and sewerage services are already over burdened
- No provision has been made to deal with storm water or surface water attenuation within the site.

Bailick Road and Flood Risk

- The Bailick road floods regularly and is inaccessible during these periods.
- Concern that the proposal would increase flooding in particular during a combination of spring tides or high tides and heavy rainfall as storm water discharge from the development will be restricted from discharging in the estuary during spring and high tides.

Traffic

- The proposal will exacerbate existing traffic congestion on the Bailick Road
- Request that the proposed vehicular entrance is relocated onto the R630 Regional Road (Midleton – Whitegate Road) where there would be no residents from the existing estates or houses reversing towards the proposed development entrance.
- Unacceptable on traffic grounds
- Concern with respect to significant increase (some 200) of additional cars on Dark Road
- Appellants have serious concern for safety of existing residents of Dark Road
- Location of the proposed entrance may lead to likelihood of a traffic collision or at worse, a traffic fatality.

- Junction of Dark Road and Bailick Road is dangerous as there is reduced sight distance.
- The developer has proposed to install a footpath on the southern side of Dark Road when the northern side of the road is the most commonly used
- A new footpath is required to the northern side of Dark Road

Environment

- The proposal will give rise to a commuter development
- The train station is 2.5 miles from the site and not a viable option for most residents.
- Negative implications for climate change and global warming
- We need to change the way we treat our environment
- The quiet amenity of the area will be negatively impacted upon

Health and Safety

- Concern with duration of construction period and impact of construction upon existing residents in the area.
- Concern roads are narrow and pedestrians may be injured by construction traffic.

Oral Hearing Requested

Appeals Accompanied with:

- Photographs
- Letters of objection Submitted to the P.A.
- Submission by An Taisce
- Observation by Irish Water
- Observation by IFI

6.2. Applicant Response

6.2.1. A first party response was received from HW Planning on behalf of the applicant. It is summarised as follows:

Traffic and Access Considerations

- The location of the proposed entrance onto Dark Road has been specifically chosen regard being had to the planning history of the site (in particular Reg. Ref. 03/6851 and 04/1962)
- The Council are of the firm view that the location of the proposed entrance represents the optimal position for the entrance
- The comments of the area planner and the area engineer corroborate this view
- The traffic and transportation engineer has noted that the proposed entrance point to the site is the most appropriate location.
- No supporting evidence to suggest that the entrance would conflict with practices of some residents to reverse from their properties onto Dark Road
- Reversing out of a driveway is not a good driving practice and is discouraged by the RSA and does not constitute a reasonable ground for objection.
- The suggestion that the existing entrance to Charleston House be used as an alternative vehicular entrance is not practical or feasible.
- The proposal will result in junction and pedestrian improvements from Dark Road to L3621 Bailick Road.
- The request for a footpath on the northern side of Dark Road does not consider the views of existing residents to the east, land ownership and the fact that a footpath on the southern side of the road is more effective in terms of integration across the wider area.
- Provision has been made for designated pedestrian crossing points.
- Condition number 3 provides for a special contribution of €71,600 for works in support of the proposed development. This coupled with planned upgrade

works to the R630 by the NTA will deliver significant improvements to the local road network.

- The proposal includes significant proposals to improve connectivity in the local area.
- The application is supported by a Traffic and Road Safety Audit Assessments which conclude that the development is acceptable and will give rise to a very small increase in traffic.

Scale of Development and Provision of Supporting infrastructure

- National regional and local policy supports development of new homes on zoned lands.
- The proposal makes onsite provision for a new piece of social infrastructure for the local area in the form of a new creche, a network of POS, incl. tennis courts and a historic woodland amenity walking trail.
- Irish water have confirmed that they will facilitate a connection to the network further to a grant of planning permission.

Flood Risk

- The instances of surface water collection on the Bailick Road is acknowledged.
- The matter is being reviewed and will be ameliorated as part of the Midleton Flood study.
- The appeal site is not located within a delineated flood risk area and there is no suggestion it will contribute to flood risk locally.
- The competent authority has satisfied themselves on this matter.

Construction Management

- All deliveries will be facilitated via the proposed new entrance location via Dark Road as per submitted documentation.
- Following internal discussion, subsequent to the p.a. decision, the design team have engaged with the p.a again. The planning department have indicated provisional support for a temporary construction exit, only, on the eastern boundary for the construction phase.

- The applicant is committed to good practice construction management measures and the maintenance of a positive working relationship with neighbours.
- They are willing to front load the footpath provisions on Dark Road as part of the build out of the scheme.
- It is submitted that any concerns with respect to the build out of the scheme can and will be managed.

6.3. **Planning Authority Response**

No response received.

6.4. **Observations**

6.4.1. An Observation was received from the Department of Culture, Heritage and the Gaeltacht.

- Recommends that C. 32 (Archaeology) of the notification of decision to grant planning permission be reiterated in full in any decision to grant planning permission forthcoming from the Board.

6.4.2. An Observation has been received from Sinead Morrissey it is summarised as follows:

- Observer resides at 6 Charleston Close, the house closest the development on the west side.
- Lack of consultation with residents
- Traffic concern and access is of concern
- Vehicular access should be relocated to the R630
- Lack of connectivity in particular sustainable connectivity to wider area
- Exacerbation of traffic. Infrastructure is not in place to facilitate this development. Traffic levels are already at capacity.
- Sewerage concerns
- Flooding concerns

- Scale of development
- First party has suggested a temporary construction access onto the R630 as a carrot to residents of Dark road should they not appeal / oppose the development.
- The project should be delayed till the Lakeview Roundabout has been upgraded
- Observation accompanied with photographs.

6.5. Further Responses

6.5.1. Responses were received from Harrington O'Flynn Ltd. Consulting Engineers, Patrick and Deborah Dunne and Patrick and Vera Foley. They are jointly summarised as follows:

- Concern with regard to traffic hazard due to increased traffic and proposed access onto Dark Road
- Queueing on Dark Road is unacceptable
- Access should be relocated to R630
- Existing residents have no choice but to reverse out of their driveways
- The junction to the north side of the Dark Road is blind and there is no footpath traversing around this junction
- Flooding on Bailick Road is of serious concern
- Dispute the fact that the proposed site is not located within a delineated flood risk area and that there is no suggestion that it will directly contribute to flood risk locally.
- Scale of development and provision of supporting infrastructure inadequate to support same.
- Health and Safety – from construction traffic,
- Lack of consultation with local residents

7.0 Assessment

7.1.1. I consider the key issues in determining this appeal are as follows:

- **Principle of Development**
- **Layout and Density**
- **Traffic and Access**
- **Flood Risk**
- **Infrastructural Services**
- **Appropriate Assessment (AA)**

7.1.2. Principle of Development on the Appeal Site

7.1.3. The appeal site is located within the Midleton environs development boundary, the northern portion of the site is zoned 'R-05: Medium A Density Residential Development' while the southern portion of the site has a more general 'existing built up area' designation, as per the relevant statutory Midleton Electoral Area Local Area Plan (LAP) 2011 Vol 1 2nd Ed Jan 2015.

7.1.4. Given the pattern of development at this location and the zoning of the site the principle of residential development on the subject lands is considered acceptable.

7.2. Layout and Density

7.2.1. With regards to density, the northern section of the site is zoned for 'Medium A' density development. 'Medium A' as set out under the current CDP relates to a density in the area of 20 – 50 dwellings per ha. From my calculations the current application proposes a net density of 25 dwellings per / ha to the north of the site (40 residential units on 1.6 ha). With a density of 17 residential units to the southern portion of the site and a density of 20 units / ha for the overall site.

7.2.2. Regard is had to national guidelines for planning authorities on Sustainable Residential Development in Urban Areas (2009), this site is regarded as an 'Outer Suburban', Greenfield site. National Guidelines suggest that net residential densities

in the order of 35 to 50 units per hectare should be encouraged on such sites with a lower limit of 30. The proposed development falls short in this regard.

- 7.2.3. The Board may consider that the density proposed is contrary to the provisions of the Guidelines for Planning Authorities on *Sustainable Residential Development in Urban Areas* (2009). The site of the proposed development is on serviceable lands, within the development boundary of Midleton, with the northern portion of the site earmarked for 'Medium - A' density development. Regard being had to the proposed density of development, it could be considered that the proposed development would not be developed at a sufficiently high density to provide for an acceptable efficiency in serviceable land usage given the proximity of the site to the built-up area of Cork city and to the established social and community services in the immediate vicinity. Furthermore, it could be considered that such a low density would be contrary to these aforementioned Ministerial Guidelines, which indicate that net densities less than 30 dwellings per hectare should generally be discouraged in the interests of land efficiency.
- 7.2.4. I highlight for the attention of the Board that the planning authority report on file states that the applicant was advised, by way of pre-planning, that a minimum of 30 units per hectares should be considered for this site. Subsequently the applicant proposed a SHD of 101 units and engaged in a formal S247 pre planning meeting with Cork County Council on the basis of same. The planning authority report notes that applicant was advised that the northern section of the site would be the most appropriate location for higher density i.e. > 30 units. The southern section of the site was more problematic as there were design constraints associated with the protection of the setting around the period property. The applicant has indicated that further revisions to the layout following on from the SHD meeting has resulted in an omission of some dwellings. It is argued that the loss of some dwellings results in a better layout vis a vis the existing period property. To my knowledge no opinion was issued by the board on this site. It would appear that the applicants did not engage with the SHD process further than a formal S247 pre-planning meeting.
- 7.2.5. While the appeal site is within walking distance of Midleton town. The subject lands are within the grounds of / associated with Charlestown House. Charlestown House is included in the NIAH (Regional Rating). The landscape both historically and presently consists of mature woodlands with amenity paths to the edges of the

development site, grassed tennis courts are located to the south west corner of the 'southern' field.

- 7.2.6. The layout as presented consists of 87 dwellings and 2 apartments divided between 4 'character' areas / phasing zones. These surround a central green area which include the historic grassed tennis courts. It is contended that the scheme is designed to allow Charleston House retain its dominance / views. It is also intended that Charlestown house remain in private ownership with no direct access to the proposed development. Charlestown House is encircled by a dense hedgerow which effectively demarcates it from the wider lands, it is not included as part of the proposal.
- 7.2.7. It is clear that national policy today strongly supports housing being promoted in areas which can be connected to public services, promotes compact growth, densification and consolidation. Cognisance is had to the National Planning Framework, which I note recognises the need for securing compact and sustainable growth within existing built-up serviced areas and a suite of National Policy on density, building heights, unit mix and typology, design criteria and DUMRS. I note the policies and objectives within Rebuilding Ireland – The Government's Action Plan on Housing which also fully support and reinforce the need for urban infill residential development such as that proposed on sites in close proximity to quality public transport routes and within existing urban areas.
- 7.2.8. The planning authority consider that the overall layout of the site and density, albeit, low is acceptable on the subject lands. Regard being had to (a) the impact on Charlestown House and (b) utilising the existing features / landscape in the design.
- 7.2.9. On balance, regard being had to constraints of the site (upgrade required to the Midleton WWTP), to the historic setting and character of Charlestown House and having carried out a site visit, I tend to concur that the proposed density, albeit low, is acceptable, in this specific instance, and would be in accordance with CDP requirements.
- 7.2.10. I also consider that house type, size, mix and design is appropriate and will provide options for a variety of persons / demographic. 1 – 5 bedroom units are proposed.
- 7.2.11. I consider the overall layout of the proposed scheme, incorporating the changes as requested by the planning authority, by way of additional information, generally to be

acceptable. I intend to further discuss roads and access issues in a succeeding section of this report.

7.3. Traffic and Access

- 7.3.1. Traffic impact and connectivity (lack of footpaths) has been raised as serious concerns by third parties. Concern is expressed with respect to traffic safety due to traffic congestion on Dark Road and to the current practice of residents of Bailick Road having to reverse cars from driveways onto Bailick Road. It is submitted that there is grid lock in the area on a daily basis. It is contended that permission is premature pending upgrade works in the area. That the junction of Dark Road and L3621 Bailick Road is dangerous, as there is reduced sight distance, and it is requested that the location of the proposed vehicular entrance be relocated from Dark Road to the Whitegate Road (R630).
- 7.3.2. The application is supported by a Traffic Assessment Report and Road Safety Audit carried out by NRB Consulting Engineers which conclude that the development is acceptable and will give rise to a very small increase in traffic. The appeal site is located approx. 3 Km to the south of Midleton town centre. The wider area is served by footpaths and it is noted that new footpaths are being proposed outside the boundary walls to link to the existing network. The applicant has included parts of the public road within the red line boundary of the site to facilitate new works in this regard. Designated pedestrian crossing points, as part of the raised table arrangements to deliver on dual benefits of traffic calming and safe access for existing residents to the new footpath infrastructure on the southern side of Dark Road, and by the extension to Ballinacurra Village and Midleton Town Centre will be put in place.
- 7.3.3. Existing issues in the local area are recognised in the report of the Council. It is contended that they are the product of a lack of capacity on the R630 approach to the N25 at Lakeview Roundabout and more localised connectivity issues between Ballinacurra Village and school's at Saint Mary's road. It is submitted that Cork County Council are advancing proposals for the upgrade of the Lakeview Roundabout and the incorporation of a left turn filter lane westbound. From information contained on file it is maintained that planning consent has been obtained through the Part VIII process. The first party proposal to front load the

construction of footpaths to alleviate concerns of third parties / residents of Dark Road is welcomed. This can be ensured by way of condition.

- 7.3.4. Cognisance is also had to the special development contribution of €71,600 (provided by way of C. 3 of the notification of decision to grant planning permission) for works to be carried out for the provision of (a) to facilitate the construction of a new slip road to the Lakeview Roundabout (b) to facilitate construction of additional traffic calming measures on the Dark Road. This coupled with planned upgrade works to the R630 by the NTA, will deliver significant improvements to the local road network. Cognisance is also had that any grant of permission should be subject to a bond to ensure satisfactory completion of the development, in this regard condition 5, attached to the notification of decision to grant permission, is noted.
- 7.3.5. It is submitted that the location of the proposed entrance onto Dark Road has been specifically chosen regard being had to the planning history of the site (in particular Reg. Ref. 03/6851 and 04/1962). The traffic and transportation engineer has noted that the proposed entrance point to the site is the most appropriate location. I agree that there is no supporting evidence to suggest that the entrance would conflict with practices of some residents who reverse from their properties onto Dark Road.
- 7.3.6. Overall I consider that the proposal is acceptable from an access and connectivity perspective.
- 7.3.7. Concern of residents with respect to duration of construction period, construction management and impact of construction upon existing residents in the area is noted.
- 7.3.8. The first party confirm by way of response to the appeal that all deliveries will be facilitated via the proposed new entrance location on Dark Road, as per submitted documentation. I highlight for the attention of the Board that the first party, in an attempt to alleviate the concerns of third parties, have indicated that they are open to a temporary construction exit, only, on the eastern boundary (R630 Whitegate Road). They are in discussion with the planning authority and subject to agreement with the planning authority they are willing to construct a separate temporary site exit onto the R630. I consider that this matter can be dealt with by way of condition, with the construction entry / exit arrangement reliant upon written agreement from the planning authority.

- 7.3.9. The applicant submits that they are committed to good practice construction management measures and the maintenance of a positive working relationship with neighbours. It is again noted that they are willing to front load the footpath provisions on Dark Road as part of the build out of the scheme.
- 7.3.10. I consider that subject to a construction management plan being put in place, required by way of condition, of any grant of planning permission, that the proposed development would be acceptable from a construction access and management point of view.
- 7.3.11. Overall I see no justifiable reason to refuse planning permission on traffic safety grounds.

7.4. Flood Impact

- 7.4.1. Third parties to the appeal submit that the Bailick road floods regularly and is inaccessible during these periods. Concern is raised that the proposal would increase flooding, in particular, during a combination of spring tides or high tides and heavy rainfall, as storm water discharge, from the development, would be restricted from discharging in the estuary during spring and high tides.
- 7.4.2. The area engineers primary report sets out that the subject site does not fall within the flood zone areas. It is acknowledged that the Bailick Road L3621 is subject, in part, to flooding at times of spring tides or high tides coinciding with an intense rainfall. The report states that 'ARUP consulting engineers are appointed to undertake the Midleton flood study with construction expected to commence in 2021. The Bailick Road is part of the study area'.
- 7.4.3. The national flooding website www.floodmaps.ie does not have any record of historic flooding at the site itself, however, a flood event is recorded at the junction of Bailick Road and Dark Road.
- 7.4.4. It is noted that the applicant proposes to connect to an existing surface water sewer in the Area. This discharges directly to the Ballinacurra River. It is submitted that attenuation is not proposed as the location is near the tidal estuary. The area engineer and the planning authority has no objection to the proposal subject to conditions.

7.4.5. Taking the foregoing into account, I am of the opinion that the development would not increase flood risk generally or to the surrounding area. There is no reasonable justification for refusal of the proposed development on grounds that it would increase flooding hazard and consequently would be unacceptable by reason of public health hazard.

7.5. Infrastructural Services

7.5.1. Third party concern is raised that water and sewerage services are already overburdened and that there are no parks, playgrounds, school, community facilities, cycle paths, walkways or even footpaths in some parts.

7.5.2. Foul sewerage from the proposed development will be disposed of to the Middleton WWTP for treatment prior to discharging into the transitional waters of the North Chanel Great Island. It is noted that the design capacity of the WWTP is exceeded by the proposal, however, the AA report on file argues that the additional loading will, only, alter the design capacity <2%. The report thus extrapolates that this increase is not likely to be significant owing to the dilution available. On this basis and the fact that there is a development buffer between the subject lands and Natura 2000 sites, the report concludes that 'significant' impact on Natura 2000 sites can be ruled out.

7.5.3. The planning report on file, subsequent to further information, notes that the capacity issues at the Middleton WWTP are a valid concern. It is noted, however, that the infrastructure required to develop these lands has been subject of LIHAF funding and a Part VIII is currently being advanced in respect of the new road and pumping station. This is being carried out in conjunction with Irish Water and the station is expected to be operational by 2021. It is intended that the effluent generated as part of this development and all new residential development in the area will be pumped via this station to the recently constructed treatment plant at Carrigtwohill. It is expected that diversion of effluent will free up some capacity within the existing Middleton WWTP.

7.5.4. I agree that the subject development should be considered in light of new advancements in infrastructure. Irish Water (IW) has no objection to the proposed development and has given the applicant permission to connect to the existing WWTP, subject to agreement.

- 7.5.5. Having regard to the nature and scale of the proposed development and to the foul and surface water treatment measures proposed, it is considered reasonable, to conclude that the proposed development would not be unacceptable by reason of public health hazard.
- 7.5.6. Overall, I see no justifiable reason to recommend a refusal of planning permission based upon the proposed development being prejudicial to public health.
- 7.5.7. It is noted that the proposal makes onsite provision for a new piece of social infrastructure for the local area in the form of new footpaths, a new creche, a network of POS, incl. tennis courts and a historic woodland amenity walking trail.

7.6. **Appropriate Assessment (AA)**

- 7.6.1. Overall I consider it is reasonable to conclude on the basis of the information available that the proposal individually or in combination with other plans or projects, would not adversely affect the integrity of the Cork Harbour SPA (site code 004030), Ballycotton Bay SPA (site code 004022), the Blackwater River SAC (Cork/Waterford) (site code 002170) or the Great Island Channel SAC (site code 001058) having regard to the nature and scale of the proposed development, infrastructure services in place and separation distances involved. It is also not considered that the development would be likely to have a significant effect individually or in combination with other plans or projects on a European Site.

8.0 **Recommendation**

- 8.1.1. I recommend that planning permission should be granted, subject to conditions, as set out below.

9.0 Reasons and Considerations/ Reasons

- 9.1.1. Having regard to the nature and scale of the proposed development, to the existing and permitted pattern of development in the vicinity of the site and to the residential zoning of the site, that, subject to compliance with the conditions set out below, the proposed development, would not seriously injure the amenities of the area, would not adversely affect the character of the area, would be acceptable in terms of flood risk, waste disposal, access and traffic safety and would not, therefore, be contrary to 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 12th October 2018 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 development shall be carried out on a phased basis, in accordance with a phasing scheme which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of any development.

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

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

Reason: In the interest of visual amenity.

4. The windows serving all bathrooms, en-suites and walk-in wardrobes shall be permanently fitted and maintained with obscure or stained glass. The use of film is not permitted.

Reason: In the interests of proper planning and sustainable development of the area

5. 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.

6. The areas of public open space shown on the lodged plans shall be reserved for such use. These areas shall be levelled, contoured, soiled, seeded and landscaped in accordance with the landscaping scheme submitted to the planning authority on the 29th June 2018. 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.

7. Prior to commencement of development, the developer shall submit to, and agree in writing with, the planning authority, full details of the proposed boundary treatment including rear and party dividing boundary treatments.

Reason: in the interest of visual and residential amenity.

8. (a) The internal road network serving the proposed development, including turning bays, junctions, parking areas, footpaths and kerbs, shall be in accordance with the detailed standards of the planning authority for such works.

(b) The proposed footpath to the southern side of Dark Road shall be constructed and completed in accordance with Phase 1 of the development.

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

9. (a) 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.

(b) The developer shall adhere to the principles of sustainable drainage designs (SUDS).

Reason: In the interest of public health.

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

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

11. 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 interest of public safety and visual amenity.

12. 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 for each house shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the waste shall be managed in accordance with the agreed plan.

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

13. The development shall comply with the requirements of the Engineering and Transportation Division of Cork County Council:

- a) A formal construction entry / exit construction traffic management plan shall be prepared and submitted to the planning authority for its written consent prior to the commencement of development.
- b) The developer shall ensure that adequate sightlines are made available at entrances to the development, at all junctions within the estate and for vehicles exiting / entering driveways.
- c) The layout and services for the estate shall comply with the standards set down in 'Recommendations for Site Development Works for Housing Areas' (Dept. of the Environment and Local Government, 1998) and with the Standard Requirements of the Planning Authority. Where conflicts arise between different Standards, or between Standards and planning permission, or between different planning permission requirements, clarification shall be sought from the Planning Authority. Any conflict shall be resolved to the satisfaction of the Planning Authority.
- d) The developer shall retain wayleaves to the Planning Authority's satisfaction, over areas where services traverse private property. In the event of the Planning Authority deciding at its discretion to take the roads and services in charge the developer shall provide rights of way and wayleaves over these areas to the Planning Authority. A minimum of 6 m wayleave width shall be provided on all water service pipelines and surface and foul water sewers through private property. No development shall be undertaken within the wayleaves unless otherwise agreed with the Planning Authority. Works shall not commence until any necessary wayleave agreements have been established.
- e) The developer shall be responsible for the maintenance of all roads, footpaths, open spaces, site boundaries and other services within the estate until taken in charge by the Council, at its discretion.
- f) The developer shall submit to the Planning Authority a drawing (hardcopy and electronically) showing the areas that would be proposed for "Taking In Charge", prior to commencement of development. This drawing shall also show the public facilities typically considered by the Planning Authority for "Taking In Charge" such as public lighting, roads, footpaths, open spaces, surface water/foul sewerage and water supply systems. The area on the drawing that would be considered for "Taking In Charge" shall be finalised to the satisfaction of the Planning Authority.
- g) The Developer/Applicant shall prepare and submit an internal traffic management plan prior to commencement of development identifying the locations of stop lines,

pedestrian crossings, speed table ramp traffic calming measures, finalising the kerb lines/radii. The plan shall be finalised to satisfaction of the Planning Authority and finalised plan re-submitted prior to commencement of construction.

h) Footpath and kerb to be dishd and new access and egress provided to the requirements of the Area Engineer, Roads Maintenance Department.

i) All costs incurred by Cork County Council, including any repairs to the public road and services necessary as a result of development, shall be at the expense of the developer.

j) A minimum of 2 no. 5m x 2.5m parking spaces shall be provided for each residential unit, unless otherwise agreed with the Planning Authority.

k) Traffic Management shall comply with the 'Traffic Management Guidelines' issued by the Department of Transport in 2002.

l) Construction drawings shall be submitted and agreed with the Estates Engineer before any work begins on site.

m) As built drawings shall be submitted following completion of all the works, these shall be submitted electronically in AutoCAD format and in PDF, (these should include the depth the services which are installed and the location of all underground services)

n) No muck, dirt, debris or other material shall be deposited on the public road or verge by machinery or vehicles travelling to or from the site during the construction phase. The applicant shall arrange for vehicles leaving the site to be kept clean.

o) During construction the wheels of all trucks shall be washed prior to their exit from the site in a wheel wash facility. Details of the construction, installation and operation of this facility shall be agreed in writing with the Planning Authority prior to commencement of any development.

p) During construction the developer shall provide adequate off carriageway parking facilities for all traffic associated with the proposed development, including delivery and service vehicles/trucks. There shall be no parking along the public road.

q) A Mobility Management Plan for the development, to include parking management, location of stop lines, pedestrian crossings, traffic calming measures and kerb lines / radii shall be prepared and submitted to the planning authority for its written consent prior to the commencement of development.

Reason: In the interests of traffic safety

14. (a) The construction of the development shall be managed in accordance with a Construction Environmental 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.

(b) Site development and building works shall be carried out only between the hours of 08.00 to 19.00 Mondays to Fridays inclusive, between 09.00 to 14.00 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 the interests of public safety and residential amenity

15. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development.

Reason: In the interests of visual and residential amenity.

16. The developer shall facilitate the archaeological appraisal of the site and shall provide for the preservation, recording and protection of archaeological materials or features which may exist within the site. In this regard, the developer shall:

(a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development, and

(b) employ a suitably-qualified archaeologist prior to the commencement of development. The archaeologist shall assess the site and monitor all site development works.

The assessment shall address the following issues:

(i) the nature and location of archaeological material on the site, and

(ii) the impact of the proposed development on such archaeological material.

A report, containing the results of the assessment, shall be submitted to the planning authority and, arising from this assessment, the developer shall agree in writing with the planning authority details regarding any further archaeological requirements (including, if necessary, archaeological excavation) prior to commencement of construction works.

In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.

Reason: In order to conserve the archaeological heritage of the area and to secure the preservation (in-situ or by record) and protection of any archaeological remains that may exist within the site.

17. 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 of roads, footpaths, watermains, drains, 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 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 of the development

18. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any

applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

19. The developer shall pay the sum of €71,600.00 (seventy one thousand, six hundred euro) (updated at the time of payment in accordance with changes in the Wholesale Price Index – Building and Construction (Capital Goods), published by the Central Statistics Office), to the planning authority as a special contribution under section 48 (2)(c) of the Planning and Development Act 2000, as amended, in respect of works to be carried out for the provision of (a) to facilitate the construction of a new slip road to the Lakeview Roundabout (b) to facilitate construction of additional traffic calming measures on the Dark Road. This contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate. The application of 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 considered reasonable that the developer should contribute towards the specific exceptional costs which are incurred by the planning authority which are not covered in the Development Contribution Scheme and which will benefit the proposed development.

Fiona Fair
Planning Inspector
30.05.2019