



An
Bord
Pleanála

Inspector's Report ABP-303320-18

Development

Construction of 13 no. detached houses, demolition of former school buildings. Construction of town centre building with 2 no. shops and 17 no. apartments and renovation of former convent building and conversion to 18 no. apartments.

Location

The former Convent of Mercy, Main Street, Chapel Square, Chapel Lane and Back Road, Passage West, Co. Cork

Planning Authority

Cork County Council

Planning Authority Reg. Ref.

17/7272

Applicant(s)

Clyda Eco Homes Ltd.

Type of Application

Permission

Planning Authority Decision

Grant

Type of Appeal

Third Parties and First Party

Appellant(s)

First Party v Condition no. 60

Kathleen O'Sullivan
Michael & Anne Canty

Observer(s) None
Date of Site Inspection 21st March 2019
Inspector Kenneth Moloney

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1.0 Site Location and Description

- 1.1. The appeal site is located within the centre of Passage West, County Cork.
- 1.2. The site is situated between the Main Street and Fair Hill (Back Road) in the centre of Passage West.
- 1.3. The overall size of the appeal site is 1.279 ha (3.16 acres) and the shape of the appeal site is irregular.
- 1.4. A significant feature of the appeal site is the rising topography from the east, i.e. adjoining Main Street, to the west of the subject site.
- 1.5. The front (east) of the subject site faces onto the Main Street of Passage West. There is a small town park located on the opposite side of the Main Street from the appeal site.
- 1.6. The building that faces onto the Main Street is a former school building dating from c. 1965. The former school building has a height of 2 – 3 storeys with a high pitch roof.
- 1.7. The eastern boundary of the appeal site has an existing vehicular access onto the Main Street. The western boundary of the appeal site adjoins Fair Hill and the western boundary comprises of a large stone wall.
- 1.8. The subject site has a former two-storey convent building in situ. This building has a plaster finish elevation with 2 no. chapel buildings located either side of the former convent building. There is also a three-storey former 'Industrial School Building' located on the site adjoining the convent building. The former industrial school building is 3-storey in height and is visually prominent from the centre of the town.
- 1.9. There are several other derelict structures on the appeal site.

2.0 Proposed Development

- 2.1. The proposed development comprises of the redevelopment of the subject site and the construction of a mixed-use development consisting of;
 - Construction of new 4-storey town centre building on Main Street with shop units at ground floor level and 17 no. apartments over at first, second and third floor.

- Renovation and conversion of former convent / industrial school building into 18 no. apartments and alterations to the façade.
 - 13 no. detached houses.
- 2.2. The proposed town centre building will have two commercial units at ground floor level with floor areas of 231.5 sq. m. and 171.6 sq. m. respectively.
- 2.3. The 17 no. residential units in the proposed town centre building are comprised of;
- 4 no. 1-bed units
 - 13 no. 2-bed units.
- 2.4. The 18 no. apartments in the former convent / industrial school building will comprise of;
- 7 no. 1-bed units
 - 11 no. 2-bed units
- 2.4.1. The private open space provision for the proposed apartment units in the former convent and industrial school building is shared private open space at ground level, i.e. a courtyard type space.
- 2.5. The proposed detached housing units are two-storey in height with attic conversion. These proposed detached houses are 5-bedroom units with rear gardens and off-street car parking to the front.
- 2.6. It is proposed to provide a new vehicular access onto Fair Hill. The proposed detached houses and the residential units within the former convent and industrial school building will be served by a vehicular access to the west from Fair Hill. Parking for 54 no. vehicles / spaces as provided.

Additional information was sought in relation to the following issues;

1. Design and fenestration treatment.
2. Design and elevation treatment of the individual houses.
3. Photomontages to assess visual impacts of the proposed development.
4. Demolition details of the convent building.

5. Access arrangements.
6. Parking provision.
7. A structural assessment of a boundary wall.
8. Boundary treatment
9. Surface water disposal.
10. Foul sewer network.
11. Invasive Species
12. Construction Management Plan
13. Bin storage
14. Public lighting proposals
15. Future Management of the proposed apartments

Clarification of additional information sought for the following;

1. Road Safety Audit
2. Car Parking
3. Structural assessment of the boundary wall
4. Surface water disposal
5. Invasive Species Management
6. Construction Management Plan
7. Public Lighting

3.0 Planning Authority Decision

3.1. Cork County Council decided to **grant** planning permission subject to 43 no. conditions. The conditions are standard for the nature of the development.

3.2. Planning Authority Reports

3.2.1. The main issues raised in the planner's report are as follows;

Area Planner

- Site ownership is questioned.
- Conversion of the convent building, and construction of individual housing is considered in keeping with the policy objectives of the site.
- Additional car parking provision required.
- New development must respect the ACA and the visual prominence of the site.
- The building form and design approach is acceptable.
- The reuse of the convent and industrial school building is welcome.
- The open space provision is actively overlooked.
- The house design could be improved from a visual perspective.
- Details required that demonstrate how the structural integrity of the stone wall is retained.
- Landscaping proposals largely acceptable.
- A specific treatment plan for addressing the Japanese knotweed is required.
- Public lighting details required.

Senior Executive Planner

- In relation to land ownership Section 34(13) of the Planning and Development Act, 2000 (as amended) is relevant.
- There is a special zoning objective 'PW-X-02' for the site.
- The existing convent and associated school is listed on the NIAH.
- Section 3.679 of the LAP is relevant.
- Design proposal is fully assessed by the Architect's Dept.
- The reduced scale and revised design approach following the FI request is considered more appropriate.

- The approach to the conservation of the convent building is considered more appropriate.
- The revised relationship between the houses and the open space is far more active.
- There are no significant AA issues.
- A management plan is required to treat and control Japanese Knotweed.

3.3. Internal Reports;

- Public Lighting – A public lighting plan and specifications sought. Additional information required.
- Estates Primary – Additional information sought for a range of issues including, (a) management company, (b) access, (c) services, (d) boundary treatment, (e) construction management and (f) storage.
- Area Engineer – Additional information sought to address (a) inadequate car parking provision, (b) loading and unloading at the site, (c) water services.
- Conservation Office; - Further information required in relation to (a) floor plans demonstrating structural elements to be demolished, and (b) submitted plans that illustrate historic fabric to be removed.

3.4. Third Party Observations

- There are 3 no. third party submissions and the issues raised are similar to those issues raised in their third-party appeal submissions.

3.5. Submissions

- There is a submission from Irish Water who have no objections to the proposed development.

4.0 Planning History

- L.A. Ref. 16/7260 – A similar application to the current proposal before the Board. However, this application was deemed to be withdrawn following non-receipt of a response within the required statutory timeframe.
- L.A. Ref. 05/5277 – Permission **granted** for demolition of dwelling and existing annex buildings and extensions to convent building and 66 no. car parking spaces. Construction as follows;
 - 16 no. duplex units
 - 16 no. apartments
 - 16 no. town houses
 - 8 no. residential units incorporated to the convent structure

5.0 Policy Context

5.1. Development Plan

The operational development plan is the Cork County Development Plan, 2014.

The following provisions are relevant;

- Section 3.4 Housing Density
- Policy Objective HE 4-4 'Architectural Conservation Areas'
- Policy Objective ZU 3-8 'Appropriate Uses in Town Centres / Neighbourhood Centres'
- Paragraph 14.3.27 'Special Policy Areas'
- Policy Objective ZU 3-10 'Appropriate Uses in Special Policy Areas'
- Paragraph 14.4 'Brownfield Development'
- Policy Objective ZU 4-1: Development Potential of Brownfield Sites'

5.2. **Local Area Plan**

The operational Local Area Plan is the Ballincollig Carrigaline Municipal District Local Area Plan, 2017.

The following provisions are relevant;

- In accordance with Table 3.7 the appeal site is identified as a Passage West Regeneration Site, i.e. 'PW-RA-01 Former Convent Site'.
- The appeal site is designated as a 'Special Policy Area PW-X-02' where the subject site is identified as an 'opportunity site'.

5.3. **National Policy**

5.3.1. **National Planning Framework, 2018**

The National Planning Framework, 2018 – 2040, recommends compact and sustainable towns / cities, brownfield development and densification of urban sites and policy objective NPO 35 recommends increasing residential density in settlements including infill development schemes and increasing building heights.

5.3.2. **Sustainable Residential Development in Urban Areas, 2009**

The Guidelines promote higher densities in appropriate locations. A series of urban design criteria is set out, for the consideration of planning applications and appeals. Quantitative and qualitative standards for public open space are recommended. In general, increased densities are to be encouraged on residentially zoned lands, particularly city and town centres, significant 'brownfield' sites within city and town centres, close to public transport corridors, infill development at inner suburban locations, institutional lands and outer suburban/greenfield sites. Higher densities must be accompanied in all cases by high qualitative standards of design and layout. Chapter 6 sets out guidance for residential development in small towns and villages.

5.3.3. Sustainable Urban Housing: Design Standards for New Apartments, Dec. 2018

These guidelines provide recommended guidance for internal design standards, storage areas and communal facilities, private open spaces and balconies, overall design issues and recommended minimum floor areas and standards.

5.3.4. Architectural Heritage Guidelines, 2011

The Architectural Heritage Protection Guidelines for Planning Authorities, 2004, offers guidance to planning authorities on determining planning applications in relation to protected structures.

Chapter 2 of the Guidelines deals with Protected Structures, while Chapter 3 deals with Architectural Conservation Areas.

6.0 **The Appeal**

6.1. The following is the summary of a third-party appeal submitted by **Michael and Anne Canty**.

- It is unclear how it is possible to remove the northern boundary wall and achieve appropriate sightline provision for the proposed vehicular entrance.
- The difficulty is that a 1 metre high fence / wall adjoins the ground which drops 20ft from the proposed entrance.
- Should condition no. 11 be retained then it would mean that no entrance could be constructed at the proposed location.

6.2. The following is the summary of a third-party appeal submitted by **Kathleen O'Sullivan**.

- The applicant is not the sole owner of the subject site.
- The appellant claims that they own circa. 30% of the lands the subject of the application.

- The proposed new entrance and the existing site entrance both have inadequate sightline provision.
- The proposed new entrance will bring access onto a narrow road which will present danger.
- Intrusion of privacy by means of overlooking.
- There are concerns with the drainage capacity to deal with the proposed development, in particular run off into the foul sewer.
- The proposal will interfere with a spring well on the site.
- The proposal will interfere with a grotto and burial ground.
- The proposal will interfere with a protected structure.

6.3. The following is the summary of a **first-party appeal** submitted by the applicants.

- It is submitted that the Condition no. 60, a special development contribution, is contrary to the legislative requirements of Section 48 and would not comply with the Development Contribution Guidelines for a Planning Authority, 2013.
- The subject works itemised in Condition no. 60 are neither specific or exceptional works.
- Paragraph 3.6.66 and Paragraph 3.6.75 of the Passage West LAP are relevant.
- Condition no. 60 are not specific or exceptional works but rather general works that are funded through the Development Contribution Scheme.
- The applicant is contributing €52,918.50 towards the cost of road infrastructure benefiting the development.
- The development site is an identified regeneration site within Passage West town centre and involves the renovation of a former convent building.
- It is submitted that given the heritage challenges with the redevelopment and the viability of apartments outside of Dublin the special development contribution threatens the viability of the proposed development.

7.0 Responses

First Party Response

The applicant submitted a response which is summarised as follows;

- The granting of permission will not confer any legal rights on the applicants and this is specified by Section 34(13) of the Planning and Development Act.
- It is submitted that the Board should utilise Section 138 (1) (a) (ii) to dismiss the appeal as the sole intention of the appellant is to seek compensation, gifts or other inducements.
- The proposed sightline provisions are acceptable. Any concerns in relation to the sightline provision were addressed in the FI submission.
- The proposed development was designed in accordance with DMURS and will function as a town centre development which promotes walking and sustainable modes of travel.
- The proposal will have no adverse impacts on overlooking or privacy.
- The proposed dwellings are set back a suitable distance from the established dwellings to the east to ensure an appropriate buffer.
- The proposed town centre building and the convent renovation will not impact on any established amenities.
- The height of the convent building will not be increased.
- The proposal is sufficiently set back from the appellant's property to ensure no overlooking.
- The appellant's concerns in relation to the protected structure are non-specific and unsubstantiated.
- A comprehensive conservation statement accompanied the application.
- There is no objection to the proposed development by An Taisce.
- The Local Authority's Conservation Officer is supportive of the proposed development.
- The applicant has gifted the grotto and statues to the local church.

- The proposal represents an appropriate scale that will ensure the long-term viability of the scheme.
- The issues of foul and storm water disposal have been comprehensively dealt with.
- The provision of the required sightline provision does not require the removal of the western boundary wall. This issue is clarified in an additional information response.

8.0 **Planning Assessment**

- Principle of Development
- Urban Conservation
- Architectural Design
- Density
- Proposed Residential Amenity
- Impacts on Established Residential Amenity
- Condition no. 60
- Vehicular Access
- Appropriate Assessment
- EIA Screening
- Ownership Issues

8.1. **Principle of Development**

- 8.1.1. The proposed development is a mixed-use development comprising of commercial ground floor units facing onto the Main Street and 48 no. residential units within the proposed development.

- 8.1.2. The appeal site is located within the established town centre of Passage West, Co. Cork. The operational Local Area Plan is the Ballincollig Carrigaline District LAP, 2017, and the appeal site is identified as a 'regeneration area' within this LAP. Paragraph 3.6.79 of the LAP states that '*efforts should be made to facilitate town centre expansion at the Dockyard and former convent site along the R610 Strand / Main Street*'. The appeal site is a former convent site.
- 8.1.3. The appeal site, although located within the town centre zoning area for Passage West, is identified as having 'Specific Development Objective', i.e. objective no. PW-X-02. Objective PW-X-02 identifies the former convent site as an opportunity site for Passage West which could accommodate various uses that incorporates the retention of buildings.
- 8.1.4. Policy Objective ZU 3-8 of the Cork County Development, 2014, sets out appropriate uses for town centres and this primarily includes retail and residential. The proposed retail development faces onto the Main Street and the proposed apartment units are located within a town centre building and they are also situated within the former 'convent' and 'industrial school building'. The proposed development also includes detached houses which are set back from the Main Street. The proposed uses would be compatible with the Policy Objective ZU 3-8 of the County Development Plan.
- 8.1.5. The National Planning Framework, 2018, (NPF) recommends compact and sustainable towns / cities, brownfield development and densification of urban sites. The themes of compact and sustainable development are reinforced by policy objective NPO 35 from the NPF as this policy objective recommends increasing residential density in settlements including infill development schemes and increasing building heights.
- 8.1.6. Overall, I would conclude that the proposed development having regard to its town centre location and the policy objectives set out in the Local Area Plan, the County Development Plan and national planning policy objectives that the principle of the proposed development is acceptable.

8.2. Urban Conservation

- 8.2.1. I noted from my site inspection that there are several buildings / structures on the appeal site. This includes former school buildings which face onto the Main Street. This former school building dates from approximately the mid 1960's. It is proposed to demolish these existing buildings and I would consider the demolition of these buildings acceptable as these buildings would have no architectural heritage value.
- 8.2.2. The appeal site also includes a former convent building which is two-storey 7-bay structure and dates from 1870. There are two chapel buildings situated either end of this former convent building. In relation to the former chapel building situated adjacent to the southern boundary I would note that only the front façade of this structure is in-situ. I noted from my site inspection that the original arch opes and sash windows of the 7-bay convent building are in-situ, although in relatively poor condition. Furthermore, the original roof is in place and the symmetry of the front elevation is an important feature of the architectural heritage of the site. The red brick building is 3-storey in height and is a 7-bay building. This building is a former 'Industrial School' and dates from 1890 and given its height and design is imposing in character. This redbrick building has many original external features and contributes positively to the architectural heritage of the area.
- 8.2.3. In terms of architectural heritage protection, it is notable that the former convent / industrial school building are protected structures. However, the entire appeal site is located within a designated Architectural Conservation Area for Passage West. Policy Objective HE 4-5 'Architectural Conservation Areas' sets out guidance for development within an ACA. Specifically, I would note that this policy states '*the special character of an area includes its traditional building stock and materials finishes, spaces, streetscapes, shop fronts, landscape and setting*'.
- 8.2.4. The NIAH has identified the former 'Industrial School' circa. 1890 (reference 20854039) as a building of regional rating. In addition, the NIAH has identified the former 'convent' building circa. 1870 as having regional rating (reference 20854038). Policy Objective HE 4 -2 'Protection of Structures on the NIAH' is relevant and states

it is an objective to *'give regard to and consideration of all structures which are included in the NIAH for County Cork, which are not currently included in the RPS, in development management functions'*.

8.2.5. I have reviewed all the conservation documentation on the file and having regard to a visual observation of the site I would consider that both the former convent building, and the former industrial school building are worthy of retention. I have reviewed the existing floor plans¹ of the subject buildings and I note that the principle of the conservation methodology is to retain external walls, principle internal walls and the original internal layout while effectively removing / demolishing partition walls to provide for the proposed new use. I note that some of the proposed apartments (see Section 8.5 below) marginally exceed the minimum floor areas however there is a built heritage gain in these instances.

8.2.6. I would note that the Conservation Officer of the Local Authority is supportive of the proposed development. I would refer the Board to drawing no. AR-43 200 which illustrates the front elevation of these buildings to residential as proposed and I would consider that the conversion of these buildings makes a positive contribution to the architectural heritage of the local area and the regeneration of the appeal site.

8.3. **Architectural Design**

8.3.1. In terms of policy context, the appeal site is located within the town centre and within a designated Architectural Conservation Area. Policy Objective HE 4-5 of the County Development Plan states that it is an objective *'to conserve and enhance the special character of ACA's'*. Paragraph 3.6.66 of the Ballincollig Carrigaline District LAP acknowledges that the town centre in Passage West has a mix of building types including town houses and terraced buildings. I noted from a visual observation of the area that the scale of buildings within the town centre are traditional in character, i.e. 2-storey and 1-storey typical townscape buildings.

¹ Drawing no. AR21 200

8.3.2. The building height of the buildings proposed for demolition are two-storey however some of these buildings have a gable fronting elevation onto the Main Street and as such are effectively 3-storey in height.

8.3.3. I have also reviewed the 'Architectural Design Guidelines for Passage West' 2005. I note some relevant recommendations for Passage West include the following;

- Existing streetscape shall be recognised as a potentially valuable resource.
- New development shall contribute to a sense of place and environmental quality.
- The town has a marked linear structure with a strong traditional street line.
- Infill development shall aim to visually and physically complement existing streetscape.

8.3.4. The proposed town building is 4-storey in height and the modulation of the front elevation provides for staggered front building line to provide for recessed balconies. This design approach would, in my view, effectively reduce the scale of the front elevation. I would note that the submitted drawing 'East Elevation Main Street'² illustrates the proposed front elevation. I would consider that the materials proposed in the front elevation are a high standard.

8.3.5. The submitted documentation includes a Visual Impact Assessment. The proposed town building View no. 1 is relevant. I would acknowledge that there is an effective doubling of height for the proposed development along the Main Street and the proposed 4-storey building is a departure from the established scale along the Main Street in Passage West. However the Main Street elevation includes a 3-storey building to the south which allows for integration of the proposed development with

² Drawing no. AR43 – 100.

established building heights. It is also important to note that the proposed front elevation includes a vertical emphasis which would, in my view, dilute the scale of the proposed development and is more characteristic of the established townscape.

8.3.6. It is also proposed to widen the existing vehicular and pedestrian entrance onto the Main Street. This would open up views of the convent / industrial school building from the town park and the Main Street and as such would effectively improve the relationship with this building and the Main Street.

8.3.7. I would conclude that in design terms the proposed front elevation successfully integrates with the character of the local area.

8.4. **Density**

8.4.1. In terms of considering residential density for the proposed development it is important to acknowledge that the appeal site is zoned town centre and that the proposal is a mixed-use development.

8.4.2. The proposed development provides for 48 residential units on a site that measures approximately 1.279 ha, and this therefore provides for a residential density of 37.52 units per ha.

8.4.3. I note that Passage West is categorised as 'Other Large Towns', in accordance with Table 3-1 'Settlement Density Guideline' of the Cork County Development Plan, 2014, and as such the designation 'Medium A' would apply. The desirable density for 'Medium A' settlements is 20 – 50 units per hectare. The residential density of 37 units per ha would therefore be acceptable. I would consider that paragraph 6.9 of the 'Sustainable Residential Development in Urban Areas, 2009' would be most relevant to the proposed development. Paragraph 6.9 states that within centrally located sites in small towns a density range of 30 – 40 units per ha would be appropriate. As such the proposed residential density would also be with national

policy objectives as set out in the Sustainable Residential Development in Urban Areas, 2009.

8.5. **Proposed Residential Amenity**

- 8.5.1. I would consider that the provision of private open space, public open space, quality of housing units, car and cycle parking provision would be relevant considerations in assessing the residential amenities for future occupants of the proposed development.
- 8.5.2. The national guidelines ‘Sustainable Urban Housing: Design Standards for New Apartments, December. 2018’ recommend a minimum floor area as follows;
- 45 sq. metres
 - 73 sq. metres
 - 90 sq. metres
- 8.5.3. The proposed town centre building includes 17 no. apartments which includes 4 no. one-bed units. The minimum floor area for these one-bed units is approximately 55 sq. metres which is an acceptable floor area. Three of the proposed one-bed units have a dual aspect orientation, i.e. east – west, which would provide a good amenity for future occupants. Apartment no. 13 has a single aspect orientation however the orientation is west facing which would provide a good amenity for residents. The private open space for the proposed one-bed units is balcony provision and the floor area of these balconies would exceed the minimum recommended floor area of 5 sq. metres in accordance with the national guidelines.
- 8.5.4. In relation to the proposed two-bedroom units it is notable that the floor area of all these units exceed the minimum recommended floor areas for 2-bed units, i.e. 73 sq. metres. Some of these units marginally exceed the minimum recommended floor area, i.e. units no. 2, 8 & 14. However, these apartments, although single aspect in

orientation, have a west facing orientation with balcony provision of 7 sq. metres. These apartment units would offer a good standard of residential amenity in terms of floor area and orientation. I would note that some of the two-bed units are single aspect and east facing however the orientation would overlook Cork Harbour estuary and as such would provide an attractive amenity. Overall, I would conclude that the residential amenity for the proposed apartments in the town centre building are acceptable.

8.5.5. It is proposed to convert the former convent and industrial school building into 18 no. apartments. The proposal includes 7 no. one-bed units and I would note that the floor area of some of these units marginally exceeds the recommended minimum floor area of 45 sq. metres. Furthermore apartments no. 3, 6, 8, 11 & 14 are solely single aspect in their orientation and primarily east facing. Another notable concern is that none of the proposed apartment units in former convent and industrial school building have individual private open space in the form of a balcony or terrace. The private open space is in the form of a shared communal private open space or courtyard space.

8.5.6. In terms of the proposed two-bed units I would note that the floor area of apartment no. 4 is approximately 64 sq. metres which falls below the minimum recommended floor area for a 2-bed unit. I would note that this apartment provides for a vaulted ceiling above the proposed kitchen / living area which would offer an additional amenity. However, the remainder of the two-beds on the ground floor level would offer a good standard of amenity in terms of floor area, dual aspect and orientation. At first floor level the proposed two-bed apartments would offer a good standard of residential amenity allowing for their heights, floor areas and orientations.

8.5.7. The proposed 13 no. detached houses are situated on higher ground than the former convent and industrial school building and the proposed town centre building. The proposal includes three different house types as follows;

- 6 no. 'House Types 1' floor area 178 sq. metres

- 6 no. 'House Types 1A' floor area 178 sq. metres
- 1 no. 'House type 2' floor area 190 sq. metres

8.5.8. The proposed houses are 5-bed units and I would note that bedrooms no. 4 & 5 within these 5-bed detached houses are primarily lit by velux roof windows. The private open space provision for the proposed houses is in the form of rear gardens. The individual rear gardens have a minimum size of 60 sq. metres however 7 no. house have more generous rear gardens. The proposed housing units also include a small balcony provision at first floor level. The public open space provision for the proposed housing units is situated to the east and this also includes active space in the form of 'play areas'. The proposed housing also provides for 2 no. off-street car parking spaces. Overall, I would conclude that the proposed housing units would offer a good standard of residential amenity for future occupants.

8.6. **Impacts on Established Residential Amenity**

8.6.1. I would consider that it is important to note, in considering impacts on established residential amenity, that the subject site in question is a town centre site and is designated in the LAP as a 'regeneration site'. As such a level of regeneration / redevelopment can be anticipated on the appeal site. Notwithstanding this any level of regeneration / redevelopment should respect local established residential amenities in the interest of proper planning and sustainable development of the area.

8.6.2. There are several established residential amenities which currently adjoin the perimeter of the appeal site and I will assess the impact that the proposal will have on these amenities.

8.6.3. There is a terrace of two-storey houses situated on Convent Lane which is located to the immediate south of the appeal site. These terraced two-storey houses adjoin the appeal site adjacent to the former convent building. It is not proposed to increase the height of the former convent building as such any issues in relation to overshadowing / loss of light are not up for consideration. The former convent

building includes apartments however there is no south facing orientation and as such any overlooking concerns are excluded. Overall, I would conclude that the proposed development would not significantly impact on these established residential amenities.

8.6.4. There is a sizable detached house situated to the immediate south-west of the appeal site. The rear elevation of this two-storey house is set back approximately 55 metres from the primarily proposed east facing apartments in the former convent and industrial school building. Furthermore, there is a significant difference in height as the level of this two-storey detached house is approximately 8 – 10 metres higher than the established convent / industrial school building. Overall, I would conclude that the proposed conversion of the convent / industrial school building to a residential use would not adversely impact on the established residential amenities of the existing two-storey house. I would also consider, based on the submitted site plan, that the proposed detached houses would not unduly impact on established residential amenities of this two-storey house in terms of overlooking or loss of privacy having regard to the proposed layout and orientation.

8.6.5. There are also several established terraced houses which face onto the Main Street, i.e. Shamrock Cottages and Wesleyan Place. The rear elevation of these houses is west facing, and the rear gardens of these properties adjoin the eastern boundary of the appeal site. It is also a notable feature of the appeal site that the rear gardens of these residential properties are at a lower level than the appeal site. The east facing elevation of the former industrial school building is set back approximately 30 metres from the rear elevations of Shamrock Terrace. Furthermore, Shamrock Terrace is situated at a lower level than the former industrial school building and allowing for landscape planting I would consider that the residential units in the former industrial school building would not unduly overlook the existing residential properties at Shamrock Terrace.

8.6.6. The proposed detached houses are set back approximately 35 metres from the rear elevations of Wesleyan Place. However, given the relatively small size of the rear

gardens for Wesleyan Place and the significant drop in level I would conclude that overlooking would not be a significant issue relative to these properties. I would have concerns with the first floor balconies on the proposed detached houses in terms of overlooking. I would recommend, should the Board favour granting permission, that these balconies are omitted by condition in the interest of protecting residential amenity.

8.6.7. Overall, I would conclude that the proposed development would not unduly impact on established residential amenities in the local area.

8.7. **Condition no. 60**

8.7.1. Condition no. 60 of the Local Authority permission seeks a special development contribution of €100,000 for measures that include the following;

- Pedestrian Crossing over the R610
- Traffic calming on the R610
- Traffic calming and junction improvement along the Back Road.

8.7.2. The Local Authority Engineering report, dated 27th July 2018, confirms that €55,000 is for the R610 and €45,000 is for the Back Road.

8.7.3. The first party appeal argues that the subject works are not exceptional or specific to the proposed development. The first party appeal submission also states that condition no. 61 provides for a Development Contribution for €73,497.93 and from this contribution €52,918.50 is contributable towards roads infrastructure benefiting development in the area.

8.7.4. Section 48 (1) (c) of the Planning and Development Act, 2000 (as amended) states that *'a planning authority may, in addition to the terms of a scheme, require the payment of a special contribution in respect of a particular development where specific exceptional costs not covered by a scheme are incurred by any local*

authority in respect of public infrastructure and facilities which benefit the proposed development.

- 8.7.5. Therefore, the significant issue, in my view, is whether the proposed development will require the local authority to provide public infrastructure and facilities which are specific and exceptional and not covered by the general scheme.
- 8.7.6. Section 7.12 of the Development Management Guidelines, 2007, sets out guidance in relation to financial contributions. These guidelines advise in relation to special contributions that the basis for the calculation of the contribution should be explained in the planning decision and how it is apportioned to the subject development. This issue has not been fully addressed. The guidelines further advise that circumstances that might warrant the attachment of a special contribution condition would include where costs are incurred directly, as a result of, or in order to facilitate, the development in question are attributable to it. However, the guidelines advise that in circumstances where the benefit of the specified works are more widespread, i.e. likely to benefit other lands then it is advisable to revise the general development contribution scheme.
- 8.7.7. I would consider that the benefit of the subject works, i.e. works referred to in paragraph 8.7.1 above, are more widespread as they would benefit many existing and proposed uses. As such the local authority, in my view, has not adequately explained, as is advised in the Development Management Guidelines, 2007, how the works or cost of works are apportioned to the subject development. Therefore, having regard to Section 7.12 of the Development Management Guidelines for Planning Authorities, 2007, I would consider that it would be more appropriate to revise the general Development Management Scheme to allow for the subject works. I would recommend to the Board that condition no. 60 is omitted on the grounds that the subject works are not required for the sole benefit of the proposed development.

8.8. **Traffic and Access**

- 8.8.1. The proposed development will be served by 2 no. vehicular entrances. The established vehicular entrance onto the Main Street (R610) will serve the proposed town centre building, comprising of commercial buildings and 17 no. apartments. The proposed vehicular entrance onto the Fair Hill or Back Road (L-2475) will serve the proposed apartments in the former convent and industrial school buildings and the proposed detached houses.
- 8.8.2. The proposed vehicular entrance onto the L-2475 provides for 50m in either direction in accordance with the submitted drawing 16044-1008. During my site inspection I noted that the sight lines were generally good from the proposed vehicular entrance. I also note that the Area Engineer's report, dated 2nd February 2018, considered that the proposed vehicular entrance and sightline provision onto the L-2475 is acceptable.
- 8.8.3. It is proposed that the existing vehicular entrance onto the Main Street will provide for a sightline provision of 50m in either direction. The Area Engineer considered the original sightline drawing unacceptable however following an additional information request the applicant has improved the sightline provision. In this regard it is illustrated in the submitted A.I. drawing no. 16044-1008 that provision of double yellow lines along the Main Street will improve the sightline provision as it will prevent parked cars obscuring sightlines. I would note that the proposed development provides additional car parking provision for a loss of on-street car parking. I would agree with this proposal and I would consider that the sightline provisions for both entrances would be acceptable.
- 8.8.4. Overall, I would consider that issues in relation to traffic and access have been adequately addressed and that the proposed development would not endanger public safety by reason of traffic hazard.

8.9. **AA Screening**

- 8.9.1. The appeal site is located approximately 1km, as the crow flies, from Cork Harbour SPA (site code 004030). It is worth noting that Cork Harbour SPA has 24 qualifying interests of which 23 are water birds and the final qualifying interest is a wetland. The appeal site is also located approximately 1.2km away from the Great Island Channel SAC (001058).
- 8.9.2. In considering the potential impacts of the proposed development on the designated Natura 2000 site I would note that the proposed development will be served by the public foul sewer and the public water network.
- 8.9.3. Therefore, the only potential risk from the proposed development to the Cork Harbour SPA is surface water run-off. However, I would acknowledge that run-off water from the subject site could however give rise to impacts on the receiving habitat for water birds, although the prospect would be remote, in my view, given the separation distance as outlined above.
- 8.9.4. In relation to the SAC the qualifying interests include the following;
- Mudflats and sandflats not covered by seawater at low tide
 - Atlantic salt meadows
- 8.9.5. The proposed development is located down river of the Great Island Channel SAC (site code 001058) and as such I would not consider, having regard to the separation distance, that the proposed development would adversely impact on the Natura 2000 site.
- 8.9.6. The Planning Authority completed a Screening Report and concluded that the proposal would not be likely to have a significant effect on European sites.

8.9.7. It is reasonable to conclude on the basis of the information on the file, which I consider adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on European Site no. site code 004030 and site code 001058, or any other European site, in view of the site's Conservation Objectives, and a Stage 2 Appropriate Assessment (and submission of a NIS) is not therefore required.

8.10. **EIA Screening**

8.10.1. Based on the information on the file, which I consider adequate to issue a screening determination, it is reasonable to conclude that there is no real likelihood of significant effects on the environment arising from the proposed development and an environmental impact assessment is not required.

8.11. **Other Issues**

8.11.1. In relation to ownership issues it is important to note Section 34(13) of the Planning and Development Act 2006, which states '*A person shall not be entitled solely by reason of permission under this section to carry out any development*'. Therefore, if planning permission were obtained, the applicant must ensure that they would have sufficient legal interest to proceed with the proposed development.

8.11.2. The Planning Authority in a correspondence to the Board have notified the Board of a clerical error in relation to condition no. 11. In this regard 'western' should replace 'northern'. I accept that this is a clerical error.

9.0 **Recommendation**

9.1. I have read the submissions on the file, visited the site, had due regard to the County Development Plan, Local Area Plan and all other matters arising. I recommend that planning permission be granted for the reasons set out below.

10.0 Reasons and Considerations

Having regard to the zoning objective for the site as set out in the Ballincollig Carrigaline District LAP, 2017, the Cork County Development Plan, 2014, the National Planning Framework, 2018 – 2040, the Sustainable Residential Development in Urban Areas – Guidelines for Planning Authorities (2009), and the overall scale, design and height of the proposed development it is considered that, subject to compliance with the conditions set out below the proposed development would not seriously injure the visual amenities of the area or of property in the vicinity, would not have a detrimental impact on architectural heritage or the environment, and would be acceptable in terms of traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

11.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, and as amended by plans and submitted to Cork County Council on the 19th July 2018 and 2nd November 2018, and 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 first floor balconies to the hereby permitted detached houses shall be omitted.

Reason: In the interest of protecting established and proposed residential amenities.

3. The use of the proposed retail / commercial units shall be restricted to use which fall within Class 1 of Part 4 of Schedule 2 of the Planning and Development Regulations, 2001, as amended and shall exclude uses such as betting office, take-away or stand-alone off-licence. Any other use shall require a separate grant of permission.

Reason: In the interest of proper planning and orderly development.

4.
 - a. A conservation expert shall be employed to manage, monitor and implement the works on the site and to ensure adequate protection of the retained and historic fabric during the works. In this regard, all permitted works shall be designed to cause minimum interference to the retained building and facades structure and/or fabric
 - b. All repair works to the NIAH listed structures shall be carried out in accordance with best conservation practice as detailed in the application and the Architectural Heritage Protection Guidelines for Planning Authorities issued by the Department of Environment, Heritage and Local Government in 2011. Items that have to be removed for repair shall be recorded prior to removal, catalogued and numbered to allow for authentic re-instatement.

Reason: To ensure that the integrity of the retained structures is maintained and that the structures are protected from unnecessary damage or loss of fabric.

5. Details including samples of the materials, colours and textures of all the external finishes, signage and lighting to the proposed buildings shall be submitted to, and agreed in writing with, the planning authority prior to

commencement of development.

Reason: In the interest of visual amenity.

6. Details of all external shopfront, including signage, lighting and finishes shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development.

Reason: In the interest of protecting the amenities of the Architectural Conservation Area.

7. Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health and to ensure a proper standard of development.

8. That all necessary measures be taken by the contractor to prevent spillage or deposit of clay, rubble or other debris on adjoining roads during the course of the works.

Reason: To protect the amenities of the area.

9. Prior to the commencement of development the applicant shall fully implement the proposals as set out in the 'IAS Management Plan', submitted to the Local Authority on the 2nd November 2018, to remove and dispose of the invasive species on site. Full details, including timing, shall be submitted in writing to the Local Authority for agreement.

Reason: To ensure invasive species which can damage buildings of other built structures and harm biodiversity, is properly and safely disposed of.

10. Public lighting shall be provided in accordance with a scheme, which shall include lighting along pedestrian routes through open spaces, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Such lighting shall be provided prior to the making available for occupation of any unit.

Reason: In the interests of amenity and public safety.

11. Boundary walls / fences shall be constructed in accordance with the details submitted on the 13/12/17, unless otherwise agreed in writing with the Planning Authority. The existing stone wall on the western side boundary shall be retained and protection measures implemented in accordance with details submitted on the 02/11/18.

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

12. The areas of public open space shown on the lodged plans shall be reserved for such use and shall be levelled, contoured, soiled, seeded, and landscaped in accordance with the detailed requirements of the planning authority.

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

13. 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.

14. Proposals for an estate/street name, house/apartment 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/apartment numbers, shall be provided in accordance with the agreed scheme. No advertisements/marketing signage relating to the names of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed names.

Reason: In the interest of urban legibility.

15. The vehicular accesses and the internal road serving the proposed development, including turning bays, junctions, 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.

16. A comprehensive landscaping scheme shall be submitted to and agreed in writing with the planning authority, prior to commencement of development. This scheme shall include the following:-

- (a) Proposed locations of trees and other landscape planting in the development, including details of proposed species and settings;
- (b) Detail of all boundary treatment, including dividing rear garden boundaries.
- (c) The boundary treatment and landscaping shall be carried out in accordance with the agreed scheme.

Reason: In the interest of protecting the character of the area.

17. The developer shall facilitate the preservation, recording and protection of archaeological materials or features that 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,
- (b) employ a suitably-qualified archaeologist who shall monitor all site investigations and other excavation works, and
- (c) provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove. 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 site and to secure the preservation and protection of any remains that may exist within the site.

18. 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.

19. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion and maintenance

until taken in charge by the local authority of watermains, drains 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.

20. The applicant shall ensure that the car parking spaces for the residential units must be sold off with the units and not sold separately, or let, to avoid non- take up by residents. The applicant shall also give an understanding in this respect, in writing, to be submitted to the Planning Authority.

Reason; In the interest of public safety and the proper planning and sustainable development of the area.

21. Each proposed apartment / house units shall be used as a single dwelling unit and shall not be subdivided in any manner or used as two or more separate habitable units.

Reason: To prevent unauthorised development.

22. 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. The plan shall include details of waste to be generated during site clearance and construction phases, and details of the methods and locations to be employed for the prevention, minimisation, recovery and disposal of this material in accordance with the provision of the Waste Management Plan for the Region in which the site is situated.

Reason: In the interest of sustainable waste management.

23. (a) The communal open spaces, including hard and soft landscaping, car parking areas and access ways, communal refuse/bin storage and all areas not intended to be taken in charge by the local authority, shall be maintained by a legally constituted management company (b) Details of the management company contract, and drawings/particulars describing the parts of the development for which the company would have responsibility, shall be submitted to, and agreed in writing with, the planning authority before any of the residential units are made available for occupation.

Reason: To provide for the satisfactory future maintenance of this development in the interest of residential amenity.

24. 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.

25. 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.

Kenneth Moloney
Planning Inspector
30th April 2019