



An
Bord
Pleanála

Inspector's Report

ABP-305758-19

Development	The construction of 31 no. houses and all ancillary site development works. Amendment to Reg. Ref. 14/5866.
Location	Lios Cara, Rathpeacon, Killeens, Co. Cork
Planning Authority	Cork County Council
Planning Authority Reg. Ref.	19/5325
Applicant(s)	Alumcrest Limited
Type of Application	Permission
Planning Authority Decision	Grant Permission
Type of Appeal	Third Party V. Grant
Appellant(s)	Lios Cara Residents Association Tim Crowley
Observer(s)	Willie Beakey & Others The Celtic Twilight Bar
Date of Site Inspection	3 rd January 2020
Inspector	Elaine Power

1.0 Site Location and Description

- 1.1. The appeal site is located in the village of Killeens, approx. 4.3km north west of Cork city centre. This area is generally characterised by low density residential estates and agricultural lands with associated buildings and dwellings. To the north the site is bound by the existing Lois Cara residential estate, which currently comprises 94 no. completed dwellings with permission for a total of 121 no. dwellings.
- 1.2. The site is irregular in shape and has a stated area of 1.52 ha. It forms part of a larger landholding within the applicant's ownership. The site is currently an overgrown greenfield site. It is divided into an eastern and western portion by an access road serving the existing Lois Cara residential estate. The general area is elevated and undulating.
- 1.3. The site is bound to the south a number of detached houses, including a derelict house and a public house. The slip road to the N20 is also located to the south of the site. To the east the site is bound by agricultural lands and to the west by one-off houses and the Seanabothair residential estate.
- 1.4. Access to the site is from Sunset Place (public road) via that existing internal access road which serves Lois Cara.

2.0 Proposed Development

- 2.1. The proposed development is an amendment to a scheme approved under Reg. Ref. 14/5866 and extended by Reg. Ref. 19/5416. It is proposed to alter the originally approved layout to provide 17 no. additional units on site.
- 2.2. The development comprises the construction of 31 no. dwellings comprising 7 no. 2-bed townhouses, 10 no. 3-bed townhouses and 14 no. 3-bed semi-detached houses. The development comprises 5 no. different dwelling types. All houses are 2-storeys with a maximum height of 8.9m. The townhouses have a gross floor area of approx. 84sqm, and the gross floor area of semi-detached houses range from approx. 106sqm to 109sqm. The design of the scheme is a contemporary approach to a traditional style. The external finishes include painted render with a metal canopy

over the front door. Private open space has been provided to the rear of each dwelling.

- 2.3. The scheme provides for 24no houses on the eastern side of the estate road and 7 no. houses on the western side. The houses are arranged around an area of open space which is provided in the centre and western portion of the site. An amenity space is proposed on the western side of the access road and a play area is proposed on the eastern side. An additional area of open space is provided along the southern portion of the site at the entrance to the development, which facilitates an underground attenuation tank.
- 2.4. Vehicular access is provided via the existing estate road. The new access roads are approx. 4.8m in width with 2m wide footpaths. 2 no car parking spaces are provided per dwelling in a combination of driveways and communal parking.
- 2.5. Ancillary site development works include a new pumping station, underground attenuation storage and landscaping.
- 2.6. The existing southern boundary, which comprises mature vegetation and trees would be retained and supplemented with a 2m high boundary wall.
- 2.7. The application was accompanied by a Planning Statement, an Architectural Design Statement, a Street Lighting report and a Civil Engineering report.

2.8. ***Unsolicited Further Information submitted on the 27th May 2019***

Part V proposals for the development were submitted by way of unsolicited further information.

2.9. ***Unsolicited Further Information submitted on the 29th May 2019***

Following the unauthorised removal of site notices the applicant submitted photographic evidence of the re-erected site notices.

2.10. ***Further Information submitted on the 10th September 2019***

The response to further information did not result in any changes to the layout of the proposed development. The response included information regarding the surface

water network, agreement in principle from Irish Water to a connection to the water supply and wastewater network, details of public open space and details of lighting specifications.

3.0 Planning Authority Decision

3.1. Decision

Permission was granted subject to 43 no. standard conditions. Of particular relevance is condition 19 which required the applicant to fund the upgrade of surface water infrastructure.

3.2. Planning Authority Reports

3.2.1. *Planning Reports*

The initial reports by the Area Planner and the Senior Planner raised a number of concerns and recommended that further information be sought regarding the following: -

- Details regarding the available capacity of the existing public storm sewer.
- Details of a pre-connection agreement with Irish Water for the water supply and public sewer network.
- Details of how the pumping station would be privately managed or clarify if it is to be taken in charge by Irish Water.
- Details of open space provision for the overall development.
- Details of public lighting specifications.

Following receipt of further information, the Senior Planner's report considered that all items of concern had been fully addressed and recommended that permission be granted subject to the conditions outlined above.

3.2.2. **Other Technical Reports**

Public Lighting final report: No objection subject to conditions

Housing Officers report: There is a demand for social housing units in the area and the proposed units are acceptable.

Area Engineer final report: Concerns raised regarding the capacity of the public storm water sewer. Recommends a number of conditions be attached to mitigate against potential negative impacts including condition that the surface water infrastructure on the public road be upgraded at the applicants expense.

Environment final report: No objection subject to conditions

Estates final report: No objection subject to conditions

3.3. **Prescribed Bodies**

Inland Fisheries Ireland: No objection subject to agreement with Irish Water

Transport Infrastructure Ireland: raised concerns that the development would be at variance with national policy which aims to restrict developments onto a National Road. A Traffic and Transport Assessment should be carried out.

Irish Water: The final submission noted that the applicant engaged with Irish Water and that a connection agreement is required prior to connection to the public system.

3.4. **Third Party Observations**

7 no. objections were received, including 2 no. submissions from local councillors Kenneth N. O'Flynn and Damian Boylan. The concerns raised are similar to those in the appeal submissions and the observations.

4.0 **Planning History**

Subject Site

Reg. Ref. 14/5866: Permission was granted in 2014 for the construction of 27 no. houses (14 no 3-bed semi-detached, 6 no. 4-bed semi-detached, 6 no. 3-bed terrace and 1 no 4-bed detached) with a creche and all associated works on a site to the

south of the existing Lois Cara residential estate and including the eastern portion of the current appeal site. An extension of duration of permission was granted under Reg. Ref. 19/5416 in 2019.

ABP 305135-19, Reg. Ref. 19/5327: Permission was refused in 2019 for an amendment to a development approved under Reg. Ref. 14/5866 and extended by Reg. Ref. 19/5416. The works include the omission of 1 no. 4-bedroom detached house with an attached creche and the construction of 2 no. 2-storey 3-bedroom semi-detached houses and all associated works on a site adjoining the appeal site to the north and within the ownership of the applicant. The reason for refusal related to the omission of the creche, which would be contrary to policy SC 3-1 of the development plan which aims to support and facilitate the provision of childcare facilities.

Parent Permission

PL04.131075, Reg. Ref. 01/4442: Permission was granted in 2004 for the demolition of an existing shop and the construction of 16 no. apartments and 107 no. dwellings, 2 no. creches and all associated site works on the overall Lois Cara residential development site.

Adjoining site

PL04.245992, Reg. Ref. 15/5331: Permission was granted in 2016 for the construction of 4 no. houses on a site located approx. 40m north west of the appeal site.

5.0 Policy Context

5.1. Cobh Municipal District Local Area Plan, 2017

The appeal site is located within the settlement boundary for Killeens. Killeens is a designated village within the plan with the strategic aim to consolidate the existing settlement, improve local services and facilities to strengthen infrastructure and public transport connections with the larger towns and villages in the district. It is

envisioned that moderate growth would occur over the lifetime of the plan, with a maximum of 30 dwellings within the settlement boundary and any new housing scheme should normally not exceed 10 units.

5.2. **Cork County Development Plan, 2014**

Policy ZU 2-2 – Development Boundaries states ‘for any settlement, it is a general objective to locate new development within the development boundary, identified in the relevant Local Area Plan that defines the extent to which the settlement may grow during the lifetime of the plan’.

The relevant policies of the Cork County Development Plan are set out below.

- HOU 3-1: Sustainable Residential Communities
- HOU 3-2: Urban Design
- HOU 3-3: Housing Mix
- HOU 4-1: Housing Density on Zoned Lands
- SC5-2: Quality Provision of Public Open Space
- SC 5-8: Private Open Space Provision
- TM 2-1: Walking
- TM 2-2: Cycling
- TM 3-1: National Road Network
- GI 3-1: Green Infrastructure – New Developments
- ZU 2-1: Development and Land Use Zoning
- ZU 3-2: Appropriate Uses in Residential Areas

Cork County Councils Recreation and Amenity Policy Document is also relevant.

5.3. **National Guidance**

- National Planning Framework
- Guidelines for Planning Authorities on Sustainable Residential Development in Urban Area (2009).
- Urban Design Manual, A Best Practice (DOEHLG, 2009)

- Design Manual for Urban Roads and Streets DMURS (2013)

5.4. **Natural Heritage Designations**

There are no designated areas in the vicinity of the site.

5.5. **EIA Screening**

Having regard to the limited nature and scale of the proposed development and the absence of any connectivity to any 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 Appeal**

6.1. **Grounds of Appeal**

2 no. third-party appeals were received from by (1) Lios Cara Residents Association and (2) Tim Crowley against the Planning Authority's decision to grant permission subject to conditions. It is noted that there is no objection in principle to additional residential units being provided within the existing Lios Cara estate. The concerns raised are summarised below: -

- The proposed development, in particular houses no. 25-31 located on the western portion of the site, would have a negative impact on the existing residential amenities of adjoining properties in terms of overlooking.
- Having regard to the level differences between the existing houses and the proposed houses and the limited separation distances proposed the development would result in an overbearing impact.
- The development would also overshadow adjoining properties. A shadow analysis should be submitted to fully assess the potential loss of light.
- The scheme is sited on an area previously designated as an area of public open space. The existing green area is well used. As the space has not been taken in charge by the local authority, it has been maintained by local

residents. Having regard to the proposed increased density a larger area of open space is required to serve the additional population. The quantity of open space should not be reduced. The open space provision is not in accordance with Cork County Councils Recreation and Amenity Policy.

- The development would contravene the Cobh Municipal Local Area Plan which states that a maximum of 30 no. houses should be granted in the village of Killeen over the lifetime of the plan. This is a development of 31 no. houses and is not the extension of the existing permission.
- Potential negative impacts on the structural integrity of adjoining properties during the construction phase. A structural assessment of adjoining properties should be carried out prior to any works being undertaken.
- The level of noise during the construction phase would have a negative impact on the adjoining residential amenities.
- The roadway to the west of the site is a private road. If the road is damaged during the construction phase it is unclear who would pay for the repairs.

6.2. Applicant Response

The applicant's response is summarised below: -

- Permission was previously granted on the site for 27 no. houses. The applicants have recently bought the site and aim to complete the unfinished estate to a high standard.
- The proposed development is in accordance with national and local policy objectives. The LAP provides guidance residential schemes, including a maximum of 10 no. units per scheme with a total of 30 no. additional units over the lifetime of the plan, however, these are guidelines and not maximum caps on development. Table 5.2.1 of the plan notes that schemes which demonstrate an overall layout that reinforces the existing character of the village may be considered. The proposed development represents the completion of the original Lois Cara scheme which is unfinished.
- The existing Lois Cara scheme comprises 94 no units. The proposed development would result in a total of 125 no. units within the estate. The

County Council Recreation and Amenity Policy document requires 12% - 18% of the site be public open space for a scheme of over 100 units. The proposed layout provides for 14% open spaces and would deliver a much higher quality and supervised area than that permitted as it accommodates a kickabout area, play area and walking trail which are all overlooked from the proposed development.

- The previously permitted area of public open space represents an inefficient use of zoned and serviced land within the settlement boundary of Killeens.
- The proposed development would not result in any negative impacts on the adjoining appellants house, in terms of overlooking, overshadowing or overbearing impact. A contextual elevational drawing has been submitted showing house no. 25 and 26 in relation to the appellants single storey dwelling. There is a separation distance of between 22m and 27m between the existing and proposed dwellings. The ridge height of the proposed two-storey dwelling is approx.5.8m higher than the ridge height of the appellants house.
- The appellants house sits at the northern boundary of his site, with the front elevation facing the laneway and the appeal site. The private amenity space associated with this house is located to the south (rear) of the dwelling. The proposed development would not overlook the private garden or the building line of the house. An additional 2m high mesh fence would be provided along the boundary of the site.
- The construction phase would be carried out in accordance with best practice and environmental controls.

6.3. **Planning Authority Response**

None

6.4. **Observations**

2 no. observations have been received from (1) Willie Beakey and others on behalf of the Residents of the Lane and (2) The Celtic Twilight Bar. The issues raised are

similar to those raised in the appeal. Additional concerns raised are summarised below: -

- The density of the scheme is out of character with the existing Lois Cara residential development and with the existing single storey dwellings to the west of the proposed development. The proposed layout would result in overdevelopment of the site and would have a negative impact on the existing residential amenities of the area.
- Concerns raised over the unsuitability of a site, located to the north of the appeal site, designated for public open space with the Local Area Plan.
- No approval has been sought for a new vehicular link to the existing private lane way which is located to the west of the appeal site. The laneway is not suitable for additional vehicular traffic.
- Additional traffic generated by the development would result in a traffic hazard, due to poor sightlines at the entrance to the development and the proximity to an existing bus stop at the entrance to the development, on Sunset Place.
- There is an under provision of car parking spaces proposed on site.
- The public sewer is already at capacity. The development would exacerbate the existing situation.
- The proposed pump house at the entrance to the development would have a negative impact on the existing visual amenities of the area.
- There is an existing public house on Sunset Place which generates noise. An insufficient separation distance has been provided between the existing premises and the proposed dwellings which would have a negative impact on the amenities of any future residents. The development would also negatively impact on the amenities of the public house in terms of overshadowing and overlooking.

6.5. Further Responses

The applicant's response to the observation received from Willie Beakey and Others on behalf of the Residents of the Lane is summarised below: -

- It is noted that the observers have raised similar issues to the appellant and the applicant reiterates that the proposed development is in accordance with Development Plan and Local Area Plan policies and objectives and that it is the applicants intension to complete the Lois Cara residential estate to a high standard and address legacy issues from the previous developer.
- The applicants are legally entitled to provide an estate road within lands which are within their ownership.
- The proposed development does not represent a traffic hazard and no alterations are proposed to the existing access arrangements previously granted under PL04.131076.
- Irish Water have confirmed that there is sufficient capacity within the water supply network and the wastewater sewer.

The response of The Celtic Twilight Bar to the applicant's submission to the observations is reiterates concerns previously raised regarding overdevelopment of the site, lack of public open space, traffic hazard and water services.

7.0 Assessment

The subject site is now sited within the jurisdiction of Cork City Council, having been subject to a boundary extension / transfer with Cork County Council. The relevant Development Plan and Local Area Plan for the purposes of the assessment of this application remain as the Cork County Development Plan 2014 and the Cobh Municipal District Local Area Plan 2017. These plans will continue to apply in the 'transfer area' until such time as they are superseded by new plans, prepared by Cork City Council.

As indicated, the appeal refers to the revised scheme as submitted by way of further information on the 10th September 2019. The main issues in this appeal relate to the principle of development, design and layout, open space, traffic, construction phase

and water services. Appropriate Assessment requirements are also considered. I am satisfied that no other substantial planning issues arise. The main issues can be dealt with under the following headings:

- Principle of Development,
- Design and Layout,
- Open Space,
- Traffic
- Construction Phase
- Water Services
- Appropriate Assessment

7.1. ***Principle of Development***

- 7.1.1. It is proposed to construct 31 no. houses (7 no. 2-bed townhouses, 10 no. 3-bed townhouses and 14 no. 3-bed semi-detached houses) on a greenfield site located at the entrance to the existing Lois Cara housing estate. The site is divided by the existing estate road into an eastern and western portion. It is proposed to provide 7 no. houses on the eastern portion of the site and the 24 no. houses western portion. The houses are arranged around an area of open space which is provided in the centre and western portion of the site.
- 7.1.2. Policy HOU 3-3 of the Development Plan requires a mix of house types and sizes. The proposed scheme comprises 14 no. semi-detached and 17 no. terraced houses ranging in size from 84sqm to 109sqm. The house are all 2-storeys in height with a similar design approach. The proposed housing mix is considered acceptable.
- 7.1.3. Permission was granted in 2004 under PL04.131075, Reg. Ref. 01/4442 for the demolition of an existing shop and the construction of 16 no. apartments and 107 no. dwellings, 2 no. creches and all associated site works on the overall Lois Cara residential development site. Due to the economic downturn the housing estate was not completed. To date 94 no. houses have been constructed.

- 7.1.4. In 2014 permission was granted under Reg. Ref. 14/5866 and extended under Reg. Ref. 19/5416 in 2019 for the construction of 27 no. houses (14 no 3-bed semi-detached, 6 no. 4-bed semi-detached, 6 no. 3-bed terrace and 1 no 4-bed detached) with a creche and all associated works on a site to the south of the existing residential estate. This site included the eastern portion of the current appeal site. The western portion of the appeal site was shown as public open space in the previous applications.
- 7.1.5. The Cobh LAP identifies that site as being located within the settlement boundary for Killeens. The LAP states that while opportunities remain for the implementation of previous permissions, it is considered that the village could accommodate a maximum of 30 no. dwellings within the settlement boundary over the lifetime of the plan. In addition, it is considered that any new housing scheme should normally not exceed 10 units. Table 5.2.1 of the plan also notes that schemes in excess of the recommended scale may be permissible where it is demonstratable that the overall scheme layout reinforces the existing character of the village and the scheme is laid out, phased and delivered.
- 7.1.6. Concerns have been raised that the scale of the proposed development is not in accordance with the provisions of the LAP. Permission was previously granted for 14 no. units on the eastern portion of the site, which formed part of a larger development for 27 no. units (reg. ref. 14/5866 and reg. ref. 19/5416). The proposed scheme is an amended to this previously approved scheme and would increase the total number of units by 17. Having regard to the planning history of the site and the nature and scale of the development it is my view that the proposed development, which reinforces the existing character of the existing estate, is in accordance with the objectives of the LAP.
- 7.1.7. It is also noted that it is an objective of the National Planning Framework to increase residential densities in appropriate locations to avoid the trend towards predominantly low-density commuter-driven developments. Excluding the areas of public open space (approx. 0.27ha) the site has a density of 25 units per hectare. Having regard to the location of the site within an existing residential estate on zoned and services lands, it is my view that the proposed increased density is appropriate in this instance.

7.1.8. In conclusion, having regard to the zoning objective for the site and the nature and scale of the proposed development, it is my view that the proposed scheme is in accordance with the objectives of the LAP and the National Planning Framework. It is, therefore, considered that the proposed development is acceptable in principle.

7.2. ***Residential Amenities***

7.2.1. To the north and west of the scheme there are a number of existing single storey detached dwellings that front directly onto a private laneway, approx. 5m from the site boundary. Concerns have been raised that due to the elevational differences and the overall height of the proposed dwellings that the proposed scheme would have a negative impact on the existing residential amenities, in terms of overlooking and overbearing impact. A pair of semi-detached houses, no. 25 and no. 26 are located in the north western portion of the site. These houses are closest in proximity to the existing dwellings. In response to the appeal the applicant submitted a contextual elevation of house no. 25 and an existing single storey dwelling to the west of the site (the appellants house). The drawings show that the finished floor level of the proposed house no. 25 is approx. 2m higher than the finished floor level of the existing house to the west. The proposed houses have a maximum height of 8.9m and would be approx. 5.8m higher than the existing single storey dwellings. There is a separation distance of approx. 22m between the rear building line of house no. 25 and the front building line of an existing house to the west and a separation distance of approx. 16m from the gable end of house no. 25 and the front elevation of an existing house to the north. The level differences between the existing and proposed houses and the overall height of the proposed dwellings are acknowledged, however, having regard to the orientation of the existing and proposed dwellings and the separation distances it is my opinion that the proposed development would not result in any negative impacts on the existing residential amenities in terms of overlooking, overshadowing or overbearing impact of houses located to the north and west of the appeal site.

7.2.2. Concerns have also been raised by an observer regarding the potential negative impacts on an existing public house located to the south of the proposed development. House no. 9 is located approx. 21m from the southern site boundary and approx. 24m from the public house. Section A-A (Part B) submitted with the

application indicates that there is a 5m level difference between the finished floor level of the public house and the proposed dwellings. It is noted that the ridge height of the proposed dwelling is approx. 10m above the existing public house. Having regard to the separation distances and the nature of the public house, it is my view that the proposed development would not negatively impact on the existing amenities of the public house. However, it is noted that the public house is bound on both sides by existing residential dwellings. I would have concerns that due to the level differences and the overall height of houses 7 – 13 that they could potentially result in undue overlooking and have an overbearing impact on existing residential properties located to the south of the appeal site, on Sunset Place. To reduce the potential negative impacts on the existing residential amenities it is recommended that a condition be attached to any grant of permission that houses 7-13 be replaced with single storey units.

7.2.3. Concerns were also raised in the observation that noise generated by the existing public house would have a negative impact on the residential amenities of future occupants of the scheme. As noted above the public house is located a minimum of approx. 24m from the proposed development (House 9). It is also noted that that public house is bound on both sides by existing residential dwellings. Having regard to the separation distances and the existing pattern of development in the area I have no objection in this instance to the proximity of the development to an existing public house and consider that it would not result in undue noise disturbance to future residents.

7.2.4. It is proposed to construct a pump house in the centre of the development on the eastern side of the estate road. Concerns have been raised that the pump house would have a negative impact on the visual amenities of the estate. Elevational drawings of the proposed pump house have not been submitted, however, having regard to its limited size and nature it is my opinion that it would not negatively impact on the visual amenities of the area. To address concerns raised it is recommended that a condition be attached to any grant of permission that the final details of the external materials of the pump house be agreed with the planning authority.

7.3. ***Open Space***

- 7.3.1. The site is currently a greenfield site. The western portion of the site was shown as public open space in previous planning applications. Concerns have been raised regarding the loss of the existing public open space, which has been maintained by local residents. It is noted that conditions attached to the previous applications do not preclude future amendments and as such this application should be assessed on its merits.
- 7.3.2. With regard to residential developments, the Development Plan and Cork County Councils Recreation and Amenity Policy Document requires the provision of 12-18% of the site area to be usable open space. The overall landscape drawing submitted by way of further information on the 10th September 2019 shows 0.81ha (14%) of public open space would be provided in 5 no. areas within the Lois Cara residential estate. With regard to the appeal site, which has a stated area of 1.52 ha it is proposed to provide 0.27 ha of public open space, or approx. 18%. The quantity of public open space proposed is, therefore, in accordance with development plan standards.
- 7.3.3. The area of open space on the eastern portion of the site has a stated area of 500sqm and includes a 100sqm Neighbourhood Play Area. The area of open space on the western portion of the site has a stated area of 2,200sqm and includes a 'kick about' area, a hard-standing plaza and an activity trail. An additional area of open space is provided along the southern portion of the site at the entrance to the development. It is noted that the proposed and existing houses provide passive surveillance of all areas of public open space.
- 7.3.4. Having regard to the quantity and quality of the public open space provided within the appeal site and within the overall Lois Cara development, it is my view that the proposed development would not have a negative impact on the existing amenities of the existing residential estate.

7.4. **Traffic**

- 7.4.1. The proposed development comprises 31 no. houses with space for 2 no. car parking spaces per dwelling. Car parking is provided in both private driveways and communal parking area. Concerns were raised by TII to Cork County Council that the proposed development would have a negative impact on a National Road and

the potential for an undesirable precedent. It is noted that the slip road for the N20 is located to the south of the appeal site. However, as the access is onto a local road network (Sunset Place) and having regard to the limited number of vehicular trips potentially generated by the proposed development, it is my view that, it would not have a negative impact on the operation or safety of a national road.

7.4.2. Concerns have been raised that the proposed development would result in a traffic hazard as there is no capacity on the private laneway or at the junction of the internal estate road and Sunset Place. The private laneway is approx. 4m in width and provides access to approx. 5no houses. It is proposed to provide a link from the northern boundary of the proposed development to the private laneway. The existing entrance to the estate is approx. 7m in width with 1.5m wide footpaths on either side. There are no alterations proposed to the existing access. Having regard to the limited number of vehicular trips potentially generated by the proposed development, it is my view that, the proposed development would not result in a traffic hazard or generate any road safety issues.

7.4.3. Concerns have been raised regarding a vehicular and pedestrian link onto the private laneway, which is outside of the applicant's ownership. In response, the applicant has stated that all works are contained within the applicant's site. In my view improved permeability within and between residential developments are welcome. The proposed access is a secondary route through the site and does not impact on access arrangements for any of the proposed houses. Having regard to the proposed layout it is considered that the additional linkages would benefit the residents of the lane, as it would provide a more direct route to the entrance of the estate. However, it is noted that the laneway to the west of the appeal site is in private ownership.

7.4.4. In my opinion, issues relating to access arrangements onto a private laneway which does not form the primary access to the site is not a matter that would be appropriate for the Board to adjudicate on. It is noted that the granting of permission would not relieve the applicants of their responsibilities in this regard. It should be noted that under section 34(13) of the Planning and Development Act 2000, as amended, a person shall not be entitled solely by reason of a permission to carry out any development.

7.5. **Construction Phase**

- 7.5.1. Concerns were raised regarding the potential negative impact that construction phase would have on the structural stability of adjoining residential properties and on the surface of the private laneway, due to use by construction vehicles.
- 7.5.2. In my opinion, issues relating to structural impacts and damage to the surface of a private road are not matters that would be appropriate for the Board to adjudicate on. It is considered that the onus is on the applicants and their contractors, to ensure that the construction phase is undertaken in a safe manner, in accordance with their obligations under separate codes, and I further note that the granting of permission would not relieve the applicants of their responsibilities in this regard. It should be noted that under section 34(13) of the Planning and Development Act 2000, as amended, a person shall not be entitled solely by reason of a permission to carry out any development.
- 7.5.3. In conclusion, I consider that the disputes between the parties in relation to matters of structural integrity, construction methods and resultant health and safety risks that may or may not arise are ultimately matters that would be dealt with more appropriately outside of the planning appeal process.
- 7.5.4. Concerns were also raised regarding noise disturbance during the construction phase. While it is acknowledged that the construction phase would result in some noise disturbance it is my view that having regard to the limited duration of the construction phase, and as all works would be carried in accordance with the relevant building regulations and best practices guidelines, it would not have a significant negative impact on the existing amenities of the adjoining properties

7.6. **Water Services**

- 7.6.1. The proposed development would be connected to the existing public water and foul water mains. Concerns have been raised that the public sewer is at capacity and the proposed development would exacerbate the existing situation. A letter from Irish Water is provided in Appendix C of the Civil Engineering Report submitted by way of further information on the 10th September 2019. The letter confirms that there is capacity currently available in the networks and that subject to a valid connection

agreement the proposed development can be facilitated. The final submission on file from Irish Water to Cork County Council noted that there is on-going discussions with the applicant.

7.6.2. The Planning Authority raised concerns regarding the capacity of the public storm sewer. The Civil Engineering Report submitted by way of further information notes that the existing pipe located under the public road is blocked with silt and is not capable of carrying any surface water runoff from the existing estate. It states that even if the pipe was unblocked it would not have the capacity to carry the attenuated flow from the proposed development. To address the deficiencies in the public infrastructure the applicant agreed with Cork City Council, who is now the relevant Planning Authority, to contribute to the upgrade of the existing surface water pipeline. An email from Cork City Council is provided in Appendix D of the Engineering Report. I have reviewed all the submitted relevant documentation and consider that this issue could be dealt with by way of condition.

7.7. ***Appropriate Assessment***

Having regard to the nature and small scale of the proposed development within a serviced urban area and the distance from the nearest European site, no Appropriate Assessment issues arise, and it is not considered that the proposed development would be likely to have a significant effect, individually, or in combination with other plans or projects, on a European site.

8.0 **Recommendation**

I recommend that permission be granted subject to conditions.

9.0 **Reasons and Considerations**

Having regard to the location of the site within the settlement boundary for Killeens, the pattern of development in the area and the nature and scale of the proposed development it is considered that, subject to compliance with the conditions set out below, the proposed development would be acceptable and would not seriously injure the amenities of the area. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application as amended by the further plans and particulars submitted on the 24th May 2019, and by the further plans and particulars received as unsolicited further information on the 10th September 2019, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. The proposed development shall be amended as follows:
 - (a) House Numbers 7 -13 shall be omitted and replaced with single storey dwellings

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

Reason: In the interests of residential amenity.

3. The site shall be landscaped in accordance with a comprehensive scheme of landscaping, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

All planting shall be adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

Reason: In the interest of residential and visual amenity.

4. Prior to commencement of development final details of the location and facilities provided in the neighbourhood play area shall be submitted to and agreed in writing with the Planning Authority.

Reason: In the interest of residential amenity

5. The internal road network serving the proposed development, including the turning area, 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.

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

Reason: In the interest of visual amenity.

7. Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

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

8. Proposals for a 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.

Reason: In the interest of urban legibility

9. Drainage arrangements, including the disposal and attenuation of surface water, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health.

10. The applicant shall enter into water and waste water connection agreements with Irish Water, prior to commencement of development.

Reason: In the interest of public health.

11. All public service cables for the development, including electrical and telecommunications cables, shall be located underground throughout the site.

Reason: In the interest of visual amenity.

12. 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.

Reason: In the interests of amenity and public safety

13. 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.

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

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

15. 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.

16. The developer shall pay to the planning authority a financial contribution as a special contribution under section 48(2) (c) of the Planning and Development Act 2000 in respect of works proposed to be carried out, for the upgrade of surface water infrastructure. The amount of the contribution 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 for determination. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate.

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

Elaine Power
Planning Inspector

5th February 2019