



An  
Bord  
Pleanála

## Inspector's Report

### ABP-311652-21

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<b>Development</b>	Demolition of cottage and the construction of 12 dwellings and all associated ancillary development works
<b>Location</b>	Hettyfield, Douglas, Cork
<b>Planning Authority</b>	Cork City Council
<b>Planning Authority Reg. Ref.</b>	21/39825
<b>Applicant(s)</b>	KMR Developments
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant Permission
<b>Type of Appeal</b>	Third Party vs Decision
<b>Appellant(s)</b>	Philomena and Leonard Cullen Thomas Cregan
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	19 <sup>th</sup> August 2022
<b>Inspector</b>	Phillippa Joyce

## 1.0 Site Location and Description

- 1.1. The appeal site is located at Hettyfield, Douglas in the southeast of Cork City. Hettyfield is a mature street within an established residential area of the city. Hettyfield is the southern boundary of an urban block created with Hettyfield Park to the west, South Lodge to the north, and Hettyfield Lane to the east. The topography and pattern of development of the block are notable. The ground levels rise in a northerly direction from Hettyfield (c.12m OD) towards South Lodge (c.18m OD), and the properties are predominantly uniform in typology comprising detached, two storey dwellings on sizeable plots with front and rear gardens areas.
- 1.2. The site is a backlands site located at the centre of the urban block described above, bound by residential properties on each side. Adjacent to the north of the site, along the full extent of the shared boundary, is a detached dormer dwelling (with an extensive rear garden area) fronting onto Hettyfield Lane (Elgan Lodge), north of which are two storey semi-detached dwellings addressing South Lodge (No.s 9-19). Adjacent to the east of the site is Hettyfield Lane, on the opposite side of which are two storey detached/ semi-detached dwellings in Lake Lawn (39, 41, 58); adjacent to the west are two storey detached dwellings (Melrose, Kilboy, Richmond) fronting onto Hettyfield Park, while adjacent to the south are two storey detached dwellings (Picardy, Cedar House) addressing Hettyfield (this part of the street extends/ projects from the main public road and is presently a cul de sac as it abuts the appeal site).
- 1.3. The site is rectangular in configuration with a stated area of 0.37ha. The site is greenfield in nature, with the remains of an old derelict cottage addressing Hettyfield Lane. Access to the site is available from two points, on the eastern boundary from the end of Hettyfield Lane and on the southern boundary from the Hettyfield cul de sac. The ground levels rise in a northerly direction across the site. The site boundaries comprise low wire fencing/ boundary walls and/ or trees and hedgerow vegetation, the latter in parts, being extensive and mature.
- 1.4. A letter of consent from the landowners (A. Moore of adjacent property to southeast, Cedar House, and C. Coakley) for the applicant to make the application accompanies the application documentation.

## 2.0 Proposed Development

- 2.1. The proposed development comprises the demolition of the cottage on Hettyfield Lane, and the construction of 12 dwellings, a vehicular entrance from Hettyfield, a pedestrian entrance from Hettyfield Lane, internal road and paths, 20 surface car parking, public open space, communal bins, boundary treatments, and all site services.
- 2.2. The proposed 12 dwellings are arranged in two rows, four semi-detached dwellings on a north-south alignment sited along the western boundary, and eight terrace dwellings on an east-west alignment sited along the southeastern part of the site. The internal road extends directly from the Hettyfield cul de sac and projects along the northern boundary serving the terrace row and towards the western boundary serving the semi-detached dwellings. The open space with a play area is located on the western side of the entrance midway on the southern boundary, communal bins are midway on the northern boundary, and shared parking spaces are indicated adjacent.
- 2.3. The dwellings comprise a mix of house types, 11 units of 2.5 storey (i.e. dormer level accommodation), 4 bedroom design and one of 2 storey, 3 bedroom design. The dwellings are similar in architectural design and treatment (streamlined elevations, fenestration styles and proportions, box dormer on front roof plane, brick finishes, boundaries) with variations in internal floor plans (six house types). The floor area of the cottage structure to be demolished is indicated as 98sqm, and the total floor area of the proposed dwellings is indicated as c.1,648sqm. The proposed development seeks to connect into the existing combined sewer for wastewater and surface water drainage which traverses the site and extends under the Hettyfield public road, and into the existing watermains located under the Hettyfield footpath at the entrance to the site.
- 2.4. The planning authority requested Further Information (FI) on a range of items, including a revised site layout plan. The FI response amended the site layout and reduced the total number of houses from 12 to 9 dwellings with a revised floor area of c.1,441sqm. The revised layout comprises three rows of dwellings arranged on north-south alignments, including four semi-detached dwellings sited along the western boundary, two detached dwellings sited centrally opposite three detached

dwellings sited along the eastern boundary. The dwelling mix comprises 2.5 storey, 4 bedroom designs with variations in floor plans (six house types). The architectural design and treatment of the dwellings remains as initially proposed. The revised layout results in the relocation of the area of open space to a central position between the two rows of detached dwellings, an internal road and footpath layout branching westwards and eastwards at the vehicular entrance serving the repositioned dwellings, the omission of communal bins and shared parking areas, the provision of two car parking spaces to the front of each dwelling, and the introduction of an easement strip in the northwest of the site connecting to a property on Hettyfield Park (Melrose). In response to a request for Clarification of Further Information (CFI), the pedestrian link to Hettyfield Lane was omitted from the layout, with subsequent repositioning of three dwellings along the eastern boundary, and amendments were made to the internal road layout, turning areas, pathways, and parking spaces.

## **3.0 Planning Authority Decision**

### **3.1. Summary of the Decision**

- 3.1.1. On the 4<sup>th</sup> October 2021, following FI and CFI responses, the planning authority issued a notification of decision to grant permission for the proposed development subject to 21 conditions. The majority of conditions address transportation (Conditions 7, 8, 9), water services (Conditions 10, 11, 12, 13, 14), and construction related matters (Conditions 6, 16, 17, 18). Of note, includes Condition 10 which directs that the storm water drainage system will not be taken in charge by the planning authority and the applicant is conditioned to indicate how the assets will be maintained in perpetuity.

### **3.2. Planning Authority Reports**

#### **3.2.1. Planning Reports**

The planner's reports are the basis for the planning authority decision. The key items from the planner's initial, FI and CFI reports are summarised as follows:

#### Initial Assessment

- Principle of residential development in the backlands site is accepted;

- Initial proposal of 12 houses deemed inappropriate due to density, being out of character, causing an adverse impact on adjacent properties;
- Revised layout with a reduction and reorientation of dwellings, removal of the pedestrian access to Hettyfield Lane, and revised location of public open space considered preferable; and
- Design, visual impact, and residential amenity of the proposed dwellings is considered acceptable.

#### Further Information Request and Response

- FI requested on 10 items including a revised site layout plan; a revised storm water management proposal; land ownership confirmation; revised footpath and kerb paving and finishes; layout design with shared surfaces being DMURS compliant; a Stage 1/ 2 safety audit; swept path analysis for refuse and fire tender vehicles; outline construction traffic management plan; parking management measures at entrance; and specification for parking spaces (disabled, EV);
- FI response, submitted to the planning authority on 14<sup>th</sup> July 2021, resulted in changes to the scheme (outlined in Section 2.4 Proposed Development above);
- FI items deemed to be acceptable include:
  - Reduction in the number of dwellings from 12 to 9 houses represents a more appropriate density;
  - Revised site layout plan, with terrace row replaced by rows of opposing detached dwellings, minimises adverse impact on adjacent properties;
  - Relocated area of public open space from southern boundary to north central location more accessible and overlooked;
  - Water services items considered to be resolved and/ or can be addressed by condition; and
  - Transportation items considered to be satisfactory include design and finish of the internal layout/ shared surfaces, construction traffic

management plan, traffic management measures for parking in/ at the entrance, and specific parking details.

#### Clarification of Further Information Request and Response

- CFI requested on four items including changes to the site layout plan including the omission of the pedestrian access onto Hettyfield Lane, redesign of paths, paving, car parking spaces for safety reasons, redesign of internal road with turning areas and satisfactory swept path analysis, and evidence of the legal status of the easement indicated in the northwest of the site;
- CFI response submitted to the planning authority on the 9<sup>th</sup> September 2021, and resulted in changes to the scheme (outlined in Section 2.4 Proposed Development above);
- CFI items deemed to be acceptable include:
  - Satisfactory resolution on four outstanding items;
  - Comment that future access to western lands via the easement would not be favourably considered;
  - Screening for appropriate assessment undertaken which concludes the proposed development would not significantly impact on a European site; and
  - Screening for environmental impact assessment undertaken which concludes that the need for EIA has been excluded at preliminary examination;
- Concludes that proposed development is acceptable and recommends that permission be granted subject to 21 conditions.

#### 3.2.2. Other Technical Reports

Roads and Transportation: initial report recommended FI (details outlined above). Subsequent FI report notes satisfactory resolution of certain items and recommends CFI on outstanding (details outlined above). Subsequent CFI report, no objection subject to conditions (basis of Conditions 4-9).

Community, Culture and Placemaking (Urban Roads and Street Design): initial report recommended FI (details outlined above).

Environment (Drainage): initial report recommended FI (details outlined above). Subsequent FI report notes satisfactory resolution of items, and no objection subject to conditions (basis of Conditions 10-14).

Environment (Parks and Landscape): initial report recommended FI (details outlined above). Subsequent FI report notes satisfactory resolution of items, no objection, no conditions.

Environment (Waste): no objection subject to conditions (basis of Conditions 15-19).

Housing and Community: initial report accepts provision for one on-site dwelling to comply with Part V obligations subject to final agreement.

### 3.3. **Prescribed Bodies**

Irish Water: no objection subject to conditions (pre connection enquiry report, basis of Conditions 11 and 12).

Inland Fisheries Ireland: requests Irish Water indicates whether there is sufficient wastewater capacity for the proposal, so the existing treatment facilities are not overloaded, or polluting matters do not enter receiving waters.

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

- 3.4.1. The planning authority indicates a total of 86 submissions were received from third party observers during the processing of the application. Submissions are in objection to the proposed development.
- 3.4.2. The issues raised in the third party submissions to the planning authority continue to form the basis of the objections by the appellants in the third party appeals, which are outlined in detail in Section 6.0 below.

## 4.0 **Planning History**

### Appeal Site

No planning history at the appeal site.

### Adjacent Site to the Southeast

*PA Ref. 14/36225, ABP 244833 (implemented)*

Permission granted on appeal (upholding planning authority decision) to A. Moore for demolition of private indoor swimming pool, construction of a house, garage, and associated site works.

## 5.0 Policy Context

### 5.1. National Policy

#### National Planning Framework Project Ireland 2040, 2018 (NPF)

5.1.1. The NPF identifies Cork as one of the country's five cities and a key location for future growth. Relevant to the appeal include national policy objectives:

- NPO 2a: A target of half (50%) of future population and employment growth will be focused in the existing five Cities and their suburbs;
- NPO 3b: Deliver at least half (50%) of all new homes that are targeted in the five Cities and suburbs of Dublin, Cork, Limerick, Galway and Waterford, within their existing built-up footprints;
- NPO 33: Prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location; and
- NPO 35: Increase residential density in settlements, through a range of measures including reductions in vacancy, reuse of existing buildings, infill development schemes, area or site-based regeneration and increased building heights.

#### Section 28 Ministerial Planning Guidelines

5.1.2. The following Section 28 Ministerial Guidelines are of relevance to the appeal. For ease of reference, I propose using the abbreviated references for the titles of certain guidelines, as indicated below.

- Sustainable Residential Development in Urban Areas, Guidelines for Planning Authorities, 2009, and the accompanying Urban Design Manual: A Best Practice Guide, 2009 (Sustainable Residential Development Guidelines);
- Design Manual for Urban Roads and Streets, December 2013 (DMURS);



- The Planning System and Flood Risk Management, Guidelines for Planning Authorities, 2009 (Flood Risk Guidelines);
- Development Management, Guidelines for Planning Authorities, 2007 (Development Management Guidelines); and
- Regulation of Commercial Institutional Investment in Housing, Guidelines for Planning Authorities, 2021 (Commercial Institutional Investment Guidelines).

5.1.3. As appropriate, specific requirements, policies, and objectives of the Section 28 Guidelines are cited and considered within the Section 7.0 Planning Assessment of this report.

## 5.2. Local Policy

### Change between Cork City Development Plans

5.2.1. The Cork City Development Plan 2015-2021 (2015 CDP) was in effect at the time the planning application was lodged and assessed, and when the appeals were made on the planning authority decision. As such, the application and appeal documentation both refer to policy in the 2015 CDP.

5.2.2. In the interim, the Cork City Development Plan 2022-2028 (2022 CDP) came into effect on the 8<sup>th</sup> August 2022 (the Draft Ministerial Direction issued to the planning authority is not applicable to the appeal case). Accordingly, therefore, this appeal is assessed with regard to the provisions of the 2022 CDP.

### Cork City Development Plan 2022-2028

5.2.3. The relevant 2022 CDP map based designations include:

- The site, located on Map 6: South-Eastern Suburbs, is zoned as ZO 1 Sustainable Residential Neighbourhoods which seeks ‘To protect and provide for residential uses and amenities, local services and community, institutional, educational and civic uses’;
- In the ‘Density & Heights’ Map 6: South-Eastern Suburbs, the site is located within the ‘Outer Suburbs’ area; and
- There are no other map based designations or protections afforded to the site or in the vicinity of the site.

5.2.4. I consider the most relevant 2022 CDP local policy and/ or objectives to be:

- Chapter 3 Delivering Homes and Communities:
  - Objective 3.4 Compact Growth – at least 66% of new homes to be provided within the existing footprint of Cork, and optimising potential housing delivery will be achieved through the development of small and infill sites;
  - Objective 3.5 Residential Density – achieve higher urban densities whilst ensuring a balance between the protection of the established character of the surrounding area and existing residential amenities;
  - Objective 3.9 Infill Development – support the development of small sites for new housing supply whilst still ensuring high standards of residential amenity for existing adjoining homes.
- Chapter 11 Placemaking and Managing Development:
  - Taking in Charge and Management Companies, Section 11.122 – areas of a development not being taken in charge shall be maintained by and the responsibility of a properly constituted private management company;
  - Infill Development, Section 11.139 – new infill development shall respect the height and massing of existing residential units and enhance the physical character of the area by employing similar or complementary architectural language and typical features.
  - Objective 11.3 Housing Quality and Standards, and Sections 11.87-11.89 – refers to best design qualitative (dual aspect, layout, orientation, open space) and quantitative standards (dwellings size, floor areas).
- Chapter 12 Land Use Zoning Objectives:
  - Sustainable Residential Neighbourhoods Policy ZO 1.2 – developments located in ZO 1 Sustainable Residential Neighbourhoods should respect the character and scale of the neighbourhood in which it is situated, and development that does not will be resisted.

### 5.3. Natural Heritage Designations

- 5.3.1. The appeal site is not located in or immediately adjacent to a European Site, a Natural Heritage Area (NHA) or a proposed NHA. There are no watercourses at or near the site.
- 5.3.2. The European Site designations in proximity to the appeal site include (measured at closest proximity):

- Cork Harbour SPA (004030) is c.350m to the southeast.

#### 5.4. **Preliminary Examination Screening for Environmental Impact Assessment**

- 5.4.1. An Environmental Impact Assessment Screening report was not submitted with the application. I identify the following classes of development in the Planning and Development Regulations 2001, as amended, as being of relevance to the proposal:

- Class 10(b) relates to infrastructure projects that involve:
  - (i) Construction of more than 500 dwelling units,
  - (iv) Urban development which would involve an area greater than 2 hectares in the case of a business district, 10 hectares in the case of other parts of a built-up area and 20 hectares elsewhere;
- Class 14 relates to works of demolition carried out in order to facilitate a project listed in Part 2 of Schedule 5 where such works would be likely to have significant effects on the environment, having regard to the criteria set out in Schedule 7 of the Regulations; and
- Class 15 relates to any project listed in Part 2 which does not exceed a quantity, area or other limit specified in that Part in respect of the relevant class of development, but which would be likely to have significant effects on the environment, having regard to the criteria set out in Schedule 7.

- 5.4.2. Having regard to:

- The nature and scale of the proposed development (demolition of cottage with a floor area of c.98sqm, and construction of 9 dwellings of c.1,441sqm, on a site with an overall area of 0.37ha) which is notably below the mandatory thresholds in respect of Class 10 Infrastructure Projects of the Planning and Development Regulations 2001, as amended;

- The nature of the proposed development as not being a project type that would give rise to waste, pollution or nuisances that differ from that arising from other residential developments in the receiving environment, or that would give rise to a risk of major accidents or risks to human health;
- The location of the site on lands that are zoned for residential and amenity uses under the provisions of the Cork City Development Plan 2022-2028, and the results of the strategic environmental assessment of the Cork City Development Plan 2022-2028, undertaken in accordance with the SEA Directive (2001/42/EC);
- The location of the site within an existing built-up urban area, which is served by public infrastructure (including water supply and drainage services of Irish Water and Cork City Council, within which there is available capacity), and the existing pattern of residential development in the vicinity;
- The location of the site outside of any sensitive location specified in article 109 of the Planning and Development Regulations 2001, as amended (including any designation protecting the landscape, natural or cultural heritage), the mitigation measures proposed to ensure no connectivity to any such sensitive location and, due to the absence of any ecological and/ or hydrological connection, the project not being likely to have a significant effect on any European Site;
- The guidance set out in the “Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-threshold Development”, issued by the Department of the Environment, Heritage and Local Government (2003); and
- The criteria set out in Schedule 7 of the Planning and Development Regulations 2001, as amended;

I have concluded that, by reason of the nature, scale and location of the subject site, the proposed development would not be likely to have significant effects on the environment and that on preliminary examination an environmental impact assessment report for the proposed development was not necessary in this case.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

- 6.1.1. Two third party appeals have been made on the application; one by the owner (T. Cregan) of San Michele, the property opposite the intersection between the cul-de-sac with the main Hettyfield road, inclusive of correspondence made by Hettyfield Residents Association (various signatories), and the other by the owner (P. and L. Cullen) of Picardy, the property adjacent to the southwest of the site.
- 6.1.2. The following is a summary of the main issues raised in the third party grounds of appeal:

#### Surface Water and Wastewater Services Infrastructure

- Amenities of the area not protected due to the absence of demonstrable and agreed storm water and foul sewer infrastructure to serve the proposal;
- Irish Water and Drainage section inputs/ assessments are traced and questioned, particularly the nature of certain conditions (No.s 10, 13, 14);
- History of flooding (stormwater and sewage overflow) at the manhole next to the appellants' property due to lack of infrastructure;
- Significant amount of detail on storm water and foul sewer not presented or assessed properly and left to conditions;
- Underground soakaway (which stormwater from the site (apart from the curtilages of houses) drains to) has been significantly undersized and if not to be taken in charge, how will it be managed in perpetuity; and
- Planning authority should have considered proposal premature due to capacity constraints in infrastructure.

#### Backlands Development

- Site is on backlands and makes a significant contribution to the visual and residential amenities, and the biodiversity of the area;
- Elgar House, a dormer dwelling, will be unduly impacted upon (overlooking, overshadowing, overbearing) from the relocated and reorientated houses in the site to its south.

### Traffic Generation and Parking

- Existing roads not suitable for current volumes of traffic which will be exacerbated by the proposed development;
- Insufficient parking provided (no visitor, no disabled) and overflow parking will occur on the adjacent streets;
- Insufficient sightlines at the intersection of the cul de sac with Hettyfield main road for construction traffic;
- Proposal (9 houses, 2 car spaces) could generate at least 36 trips a day which will significantly escalate the use of the inadequate junction;
- Turning areas for refuse and fire trucks is inadequate resulting in unsafe conditions with many of these reversing onto the existing street;
- Easement in northwest of site potentially allows for future access and servicing to/ from other lands which has not been accounted for in the current proposal;
- Planning authority should have included a condition disallowing any connection to or use of services in the development site for the benefit of the other retained lands; and
- Number of the conditions require final details to be agreed with the planning authority which excludes local participation.

### Land Ownership

- Objection to proposal due to incorrect mapping of boundary between the appeal site and the Picardy property;
- Appellants have undertaken an independent survey which finds the boundary line (which should be the existing mature hedge with posts) has instead been incorrectly indicated as the row of palm trees, (c.1.5m or 1.9m, different references) further south into the Picardy property;
- The incorrect mapping of the boundary by the Ordnance Survey has in turn been relied upon by the Land Registry (both bodies notified/ to be notified of mapping error);

- Objects to the removal of existing boundary hedge along southwest of site (with Picardy) and erection of a new 1.8m high mesh fence into a row trees as part of the proposed development; and
- Requests that the application be invalidated in accordance with a provision of the Planning and Development Regulations.

## 6.2. Applicant Response

- 6.2.1. The applicant has responded to the third party appeals, the main points of the response can be summarised as follows:

### Surface Water and Wastewater Services Infrastructure

- Disputes appellant's claims of insufficient information on water services, and the proposal being refused on prematurity grounds;
- Irish Water indicated that the proposed development could connect to the water supply and wastewater systems, that there was no objection subject to conditions, some of which required further agreement with Irish Water, including the diversion of the combined sewer;
- Notwithstanding, revisions were made to the proposed stormwater management due to planning authority concerns about capacity in the combined sewer;
- Soakaway has been designed in accordance with relevant standards and documents, and accepts that revised calculations for runoff and a maintenance plan will be submitted as part of final agreements with the planning authority; and
- Appellant has not submitted a flood assessment demonstrating claim of flood risk to the area.

### Backlands Development

- Proposal is carefully design of an appropriate density and integrated with the existing pattern of development; and
- Sufficient separation distances to adjacent properties with design safeguards to prevent overlooking.

### Traffic Generation and Parking

- Walking and public transport are viable alternative trip options at this city suburb location;
- Footpaths are designed to tie into existing footpaths which will ensure pedestrian safety;
- 2 car parking spaces per dwelling considered reasonable and sufficiently sized to serve as disabled spaces;
- Policy context reducing not increasing the provision of car parking spaces in urban schemes; and
- Potential for future access to and development of lands to the west via the easement is completely irrelevant to the proposed development.

### Land Ownership

- Mapping images provided with extent of boundaries and folio details from land registry (appeal site, Picardy);
- Existing hedge with post and wire fencing are within the applicant's control;
- Land registry cannot be blamed for errors as mapping would have to be based on submission(s) provided by landowner(s);
- Appellants did not provide any mapping information during planning authority's assessment and have not provided a map of the 'correct' ownership boundary in the appeal;
- Applicant proposes to retain existing vegetation, construct new fencing and further hedging within the site (extracts from the landscape plan and section drawing included);
- Proposal has no impact on the amenities of the adjacent property; and
- No provision to invalidate the application, instead referring the Board to guidance on issues of land ownership in the Development Management Guidelines.

### **6.3. Planning Authority Response**



A response was received from the planning authority stating that it has no further comments on the application.

#### 6.4. **Observations**

No observations have been made on the appeal case.

#### 6.5. **Further Responses**

No further responses have been made on the appeal case.

### 7.0 **Assessment**

#### 7.1. **Introduction**

7.1.1. Following a review of the application and appeal documentation, I consider the main issues in this appeal case to be as follows:

- Zoning Provisions;
- Infill Development;
- Residential Amenity;
- Traffic and Transportation;
- Services and Utilities;
- Title to Land;
- Other Issues; and
- Appropriate Assessment Screening.

I propose to address each item in turn.

#### 7.2. **Zoning Provisions**

7.2.1. At the time the planning application was lodged, and appeals made, the Cork City Development Plan 2015-2021 (2015 CDP) was in effect and the site was zoned as ZO 4 Residential, Local Services and Institutional Uses. In the interim, the Cork City Development Plan 2022-2028 (2022 CDP) has come into effect and is the applicable CDP for the assessment of the appeal case.

7.2.2. The zoning objective for the site in the current 2022 CDP has changed slightly to ZO 1 Sustainable Residential Neighbourhoods which seeks 'To protect and provide for

residential uses and amenities, local services and community, institutional, educational and civic uses'. I confirm to the Board that residential development is a permitted use therein, and there are no new designations pertaining to the site (e.g. protected structures, architectural conservation area, tree preservation orders, protected views).

### 7.3. Infill Development

- 7.3.1. The proposed development is a small residential scheme in a backlands infill site in an established residential area of an inner suburb of Cork City. The policy context for the appropriate development of the site, in terms of density and overall design approach, is determined by policy in the Sustainable Residential Development Guidelines and the 2022 CDP.

#### Density

- 7.3.2. From the guidelines (Section 5.9, Inner Suburban/ Infill), increased densities are to be encouraged on residentially zoned lands within inner suburban areas of cities, whilst protecting the amenities and privacy of adjoining dwellings, and the established character of the residential area. In this regard, the guidelines do not specify a density range for infill developments due to the relevance of context (I confirm that the site is more than 500m from a bus stop along public transport corridors for which the guidelines indicate a minimum net density of 50dph). From the 2022 CDP, in similarity with the guidelines, CDP policy for compact growth and infill developments focuses on qualitative standards, requiring high quality sustainable residential development appropriately located in the city's footprint whilst respecting the character and scale of the receiving neighbourhood through use of similar or complementary height, massing, and architectural language, rather than exact quantitative standards.
- 7.3.3. The net density of the scheme as initially proposed with 12 dwellings is c.32dph, which the planning authority considered excessive and reduced through a FI request. The net density of the revised scheme at FI response stage with 9 dwellings is c.24dph. Third party claims that the density of the proposal is excessive, and the design is out of character with the residential area feature extensively in submissions on the application and continue in the appeal grounds through

references to negative impact on residential amenity, significant traffic generation and on-street parking demand, and impact on the water drainage services.

- 7.3.4. While I note the appellants' concerns, I do not agree that the density of the proposal is excessive, thereby causing adverse impacts on amenities of properties and the character of the area. Instead, I consider the density of permitted scheme at c.24dph to be appropriate when due regard is given to the scale of the proposal and receiving context as outlined in the following subsections.

#### Design

- 7.3.5. As the site is located in the backlands of a mature residential area, the policy context requires a design approach that protects the amenities of adjacent properties and the character of the area. Appellants are critical of the layout of the scheme (out of character, not in keeping with the pattern of development) and the design of the dwellings (excessive in height and scale, overbearing visual impact, injurious to residential amenities).
- 7.3.6. I consider the receiving area's character to be formed by the pattern of development of large detached and semi-detached dwellings on sizeable plots with front and rear gardens and off-street parking, and by the architectural style of the dwellings as, predominantly., two storey, two bay, hipped roof profiles. The proposed scheme comprises dwellings served by a branched internal road terminating in two turning heads, with gardens to the rear and front, and dedicated parking spaces (majority in-curtilage). The dwellings are detached and semi-detached in typology, 2.5 storey in height (design is 2 storey with a box dormer in the front roof plane), 4 bedroom units with streamlined elevational treatment and external finishes. While there is some variance in form between the proposed development and the receiving area (smaller plot size, shorter separation distances between units and to boundaries, 2.5 storeys in building height, extent of brick finishes), I find these to be minimal and not to an extent as to render the proposal out of character with the area. I consider the design approach for the proposed development to have had full regard to the receiving context and be appropriate for the appeal site.
- 7.3.7. In summary, I consider the proposed development comprehensively complies with the stated national (NPO 3b and 35, and planning guidelines Section 5.9) and local policy (Objectives 3.4, 3.5, 3.9, Section 11.139, Policy ZO 1.2) for infill

developments. The proposal constitutes an increase in density from the existing, historic pattern of development of the receiving area, whilst maintaining the character of the area, through the provision of detached and semi-detached dwellings albeit arranged within an estate on smaller individual plots and of 2.5 storey in height, and protecting the residential amenities of the adjacent properties, as discussed in detail in the subsection below.

#### **7.4. Residential Amenity**

- 7.4.1. Residential amenity was raised in third party submissions and considered by the planning authority during the assessment of the proposal with changes made to the design of the scheme (reduction in total number of dwellings, reorientation of proposed dwellings for gables to align with existing dwellings to minimise the impact on rear gardens, increased separation distances from the existing dwellings/ property boundaries), and attachment of conditions safeguarding residential amenity (Condition 3 requiring opaque glazing in northern elevation of Dwelling 7 and southern elevation of Dwelling 9 to prevent overlooking of adjacent properties; Condition 16 managing activities related to the construction phase). I consider the revisions sought and conditions attached by the planning authority assist in minimising the extent of impacts on residential amenity.
- 7.4.2. Appellants maintain their objection to the proposal, citing the adverse impacts on the residential amenity of adjacent residents, with appeal grounds including overbearance, overshadowing, overlooking, and traffic related impacts. The applicant responds that the scheme has been carefully designed with safeguards to protect the amenity of adjacent properties, including sufficient separation distances.
- 7.4.3. Following my site inspection and review of the case file, I consider that the adjacent properties sharing a boundary with the appeal site are to be most affected, experiencing a material change in existing conditions. These include Elgan Lodge to the north, Picardy and Cedar House to the south, and Melrose, Kilboy, Richmond to the west of the site.
- 7.4.4. In respect of overbearance, while there will unavoidably be a visual impact associated with the development of the site given its undeveloped nature at present, I do not consider the proposal to be overbearing or injurious to the visual amenity of these adjacent properties. As the proposed dwellings are detached and semi-

detached in typology, there is no issue of excessive massing. While the dwellings are 2.5 storeys in height and have habitable accommodation at third floor level, this is achieved through use of a box dormer window in the front roof plane only, which is a less visually intrusive manner to achieve same. I note that the principal height of the dwellings is c.9.6m and that the topography of the site rises in a northerly direction, however due to the layout and orientation of the dwellings, streamlined elevational features and finishes, I do not consider the dwellings to be excessively bulky or visually imposing and do not concur with the appellants that the proposed development would be overbearing.

7.4.5. With regard to overshadowing, Picardy and Cedar House are adjacent to the south of the site and the gables of two proposed dwellings (Dwellings 4 and 9) are next to the rear garden areas of these properties. Due to the site being to the north of these properties and to the setbacks from the shared boundaries (c.1.5m-1.8m), the proposed development will not result in any undue overshadowing. Similarly, the properties to the west will not be materially impacted upon due to the notable separation distances (c.52m), the orientation of the site and the siting of the proposed dwellings therein (the majority of shadows cast from opposing Dwellings 1-4 will fall within their own curtilages). Elgan Lodge is adjacent to the north of the site and the gables of three proposed dwellings are to the south of the rear (Dwellings 1 and 5) and front (Dwelling 7) garden areas. Due to the orientation of the site and the siting of these dwellings, shadows will be cast on parts of the rear and front garden areas of Elgan Lodge. However, I consider the extent of shadow cast to be minimised by the distances to the shared boundary (c.3.5m-7.5m, particularly for Dwelling 5 which has an additional side garden area), and not to be unduly injurious. While I note the appellants' concerns, on balance, I consider that the property will remain provided with sufficient daylight/ sunlight on a transitory pathway along the vast majority of the rear garden, and the property will certainly retain the industry standard of a central area of a private garden receiving 2 hours of daylight/ sunlight during March 21<sup>st</sup> (Section 3.3.17 of the BRE 2011 guidance document on daylight and sunlight).

7.4.6. With regard to overlooking, four proposed dwellings (Dwellings 1-4) directly oppose the adjacent properties to the west, but due to the notable separation distances of at least c.52m, I do not consider there to be any injurious overlooking of/ towards these

properties. Of the adjacent properties to the north and south (Elgan Lodge, Picardy, and Cedar House), due to the positioning of the proposed dwellings within the site (the gables of Dwellings 1, 4, 5, 7, and 9 are aligned to the sides of the adjacent properties), there is no direct overlooking to the rears (gardens/ windows) of those adjacent properties. I concur with the planning authority's approach requiring opaque glazing to prevent oblique overlooking opportunities from gable windows in the upper floor levels of certain dwelling units and, in the event of a grant of permission, I recommend obscure glazing/ high level windows in first and second floor windows in the gables of Dwellings 1, 5, 7 and 9 (Dwelling 4 does not have windows in the respective side elevation) opposite the adjacent respective property (these windows serve ensembles/ bathrooms/ landings). Overall, with the attachment of such a condition, I consider that the extent of oblique or direct overlooking of adjacent properties to be no more than would occur from first floor windows in the rear elevations of existing properties towards other existing dwellings, windows, and gardens.

- 7.4.7. Of the traffic related impacts, as is discussed further in the following subsection, while there will be a temporary disruption from construction activities and a permanent increase in traffic activity once the dwellings are occupied, I consider the extent of the traffic movements associated with 9 additional dwellings to not be significant and can be absorbed into the local road network. In addition to construction traffic, general construction activities can affect residential amenity (hours of operation, noise and dust disturbance). However, I consider these to be temporary, localised, and not significant in effect. In the event of a grant of permission, I recommend a condition be attached requiring final agreement with the planning authority for a construction management plan inclusive of a construction traffic management plan, to safeguard the residential amenity of the adjacent properties.
- 7.4.8. I note that appellants are critical that several of the planning authority conditions (e.g. Conditions 6, 8, 13) require final details to be agreed and/ or reports to be submitted by the applicant to the planning authority which exclude third party involvement. I have reviewed these conditions and consider these to be standard in nature (construction traffic management plan), conventional in requirements (DMURS compliant), and/ or sufficiently comprehensive (soakaway design) to allow

developmental works to take place in an orderly manner whilst ensuring the protection of amenities of residents and the area.

- 7.4.9. In summary, I consider that the proposed development will not negatively impact on the residential amenity of the adjacent properties by reason of overbearance, overshadowing, overlooking, or traffic generation. In the interest of clarity, I highlight to the Board that I have reviewed the plans and particulars (including the schedule of accommodation) of the proposed dwellings and confirm that the future residents of the proposed development will enjoy acceptable standards of residential amenity in properties that comply with all relevant 2022 CDP requirements (Objective 11.3 Housing Quality and Standards, and Sections 11.87-11.89), in a residential estate provided with public open space, landscaping, footpaths, and lighting.

## 7.5. **Traffic and Transportation**

- 7.5.1. Included in the grounds of appeal are several traffic and transportation related items, key among which are excessive traffic generation, adverse impact on the existing network, substandard parking provision and overflow parking demand, and risk to traffic and public safety. I propose to address each item in turn.
- 7.5.2. In respect of traffic generation and potential impact, appellants claim that the existing road network is inadequate, the proposal will exacerbate existing capacity constraints, and significantly increase local traffic. The proposed development comprises 9 dwellings each provided with two car parking spaces. Allowing for 2 two-way trips on average per day per dwelling, I estimate the proposed development would generate an additional 36 two-way trips each day. For illustrative purposes, over a 16hr period of normal residential activity (7am-11pm) these 36 two-way trips would result in an additional 2.25 two-way trips each hour on the local road network. As I accept that many of these estimated trips would coincide with the morning and evening hourly peaks, there would be several hours during the day that less or indeed no additional trips would occur. Regarding the morning and evening hourly peaks, even if half of the estimated total trips (18 two-way trips) occurred in these hourly peaks, that would still only result in an additional 9 two-way trips during those each of those hours. I consider the potential increase in traffic generation to be well within reasonable levels of activity for a smallscale infill development within an

established residential area, and to be acceptable in terms of carrying capacity on the surrounding road network.

- 7.5.3. An additional consideration is the advantageous location of the appeal site with walking (urban connected environment with footpaths and streetlights), cycling (sufficient circulation for in-curtilage cycle parking spaces and storage) and public transport (bus stops for three routes are in c.1km distance of the site) being viable options for future residents. These transport modes will offer an alternative to private car trips thereby further minimising potential traffic impacts.
- 7.5.4. At the FI response stage, an easement was incorporated into the site layout plan for the revised proposal. The easement is located along the northwestern boundary of the site and connects to the rear of Melrose, a property fronting onto Hettyfield Park. Appellants object to the inclusion of the easement citing concerns for potential additional future development to be facilitated and serviced though the proposed development. Appellants state such potential is unknown, not assessed, and not subject to any control by condition. I have reviewed the documentation provided by the applicant on the matter to the planning authority during its assessment (legal interest related) and while I note the subsequent inclusion of the easement and planner's comments not supporting future development, I concur with the applicant's position in the appeal response. The easement arises from a legal contract providing access to an adjacent property and in the event of a future application for development, if any, it would be assessed on its own planning merits. Any uninformed assessment or restriction through condition on same would be inappropriate and not within the scope of this appeal case.
- 7.5.5. In respect of parking and overflow parking demand, appellants claim there is insufficient parking provided on-site, with no dedicated visitor or disabled spaces, which will result in overflow parking onto adjacent streets. In the final CFI site layout plan, each of the 9 dwellings is provided with two dedicated spaces, seven of which are adjacent to the front of the properties. In terms of 2022 CDP requirements, the appeal site is located in Zone 2 City Suburbs, and the applicable maximum parking standard (Chapter 11, Table 11.3) is 2 spaces per 3 bedroom+ dwelling, with no dedicated visitor spaces required. As such, I find the proposal to be in compliance with the CDP requirements. The CDP includes policy on disabled spaces and electric vehicles though with greater applicability to larger scaled or different uses



than the current proposal. I accept the applicant's position that spaces provided for each dwelling are of a scale that can serve as disabled spaces, and future proofing for electric vehicles can be addressed by way of condition.

- 7.5.6. I do not concur with appellants' concerns of adverse levels of overflow parking on adjacent streets. I consider that the proposal has sufficient parking provision, the scheme is smallscale with viable alternative modes of transportation, and visitor parking demand can be met on the publicly maintained streets as presently occurs for the properties on Hettyfield and adjacent streets.
- 7.5.7. In respect of traffic hazard and public safety, appellants raise concerns relating to the inadequacy of the turning areas for refuse/ fire vehicles, the likely use of Hettyfield instead for such movements, and the adverse impact on the Hettyfield junction for construction related traffic. Achieving adequate turning areas in the scheme was the subject of FI and CFI requests from the Roads and Transportation section of the planning authority, with the applicant submitting revised plans, a road safety audit, and swept path analysis for refuse and fire vehicles. I have reviewed the plans and particulars submitted by the applicant and find that the plans at CFI response stage (with repositioned parking spaces for Dwellings 5 and 6) demonstrate there is sufficient space in two separate areas (at the western and eastern ends of the internal roadway) which allow for turning movements for larger vehicles within the proposed scheme without any reliance on the Hettyfield public road. I note the appellants' concerns and photographs of refuse vehicle movements, however these reflect the existing conditions on the public street and are somewhat unsubstantiated. The CFI report of the Roads and Transportation section indicates the item had been satisfactorily addressed, and I concur with the planning authority.
- 7.5.8. The application includes a Waste Management and Construction Management Plan and a Construction Traffic Management Plan submitted at FI response stage. These plans outline the road conditions (width, gradient), the route for vehicles accessing the site (demonstrating sufficient space for turning manoeuvres and servicing the construction site compound area), and management of the Hettyfield junction. Construction traffic is to be managed with traffic signage giving preference to traffic using the existing dwelling entrances and the junction. I have reviewed the reports of the Roads and Transportation section of the planning authority and note there was no finding of inadequate sightlines or concern raised in respect of traffic safety at this

existing junction on the public road. The applicant's road safety audit found no road collision history at the site or in the proximate Hettyfield area. I consider the traffic impacts associated with the construction phase (demolition and soil removal, deliveries, and staff trips) to be temporary (length indicated at c.18 months), conventional, and managed. In the event of a grant of permission, I recommend a condition requiring final agreement with the planning authority on a construction management plan inclusive of a construction traffic management plan.

7.5.9. Appellants are critical about the nature of the conditions attached by the planning authority. I have reviewed the applicable conditions which relate to traffic and pedestrian safety and consider these to be comprehensive in their scope for access, construction, and operation traffic movements. There are certain design items for which final agreement is required (Condition 9), and in the event of a grant of permission I am satisfied that any design related issue outstanding can be addressed by condition requiring compliance with DMURS standards.

7.5.10. In summary, having visited the site and considered the existing traffic conditions at this location, Hettyfield is a low speed, low trafficked publicly maintained street with footpaths and street lighting. I consider that the proposal is appropriately designed, has been subject to a road safety audit, and is/ will be compliant with DMURS requirements. While there will be an impact on the adjacent properties due to the change from the undeveloped nature of the site at present, I consider that the proposed development connecting into the existing roads and paths infrastructure, can be provided safely at this location without creating a traffic hazard, endangering public safety, or causing a loss of amenity to the adjacent properties.

## **7.6. Services and Utilities**

7.6.1. A key ground of appeal relates to the surface water and wastewater drainage proposals for the scheme. During the processing of the application, the applicant's initial intention to connect all drainage into an existing combined sewer, located within the site was revised. Due to drainage separation requirements from the planning authority's Drainage section and site layout changes, at FI response stage it became necessary for the existing combined sewer to be diverted, to which wastewater only would drain, and a soakaway system would be constructed under

the public open space for the proposal's surface water drainage (other than that draining to ground via the permeable paving surfaces).

- 7.6.2. Appellants are critical of the planning authority's assessment of the drainage requirements (not properly presented, not thorough), design of the necessary infrastructure (soakaway is significantly undersized), and the nature of the conditions (too vague, much detail outstanding, how will the soakaway be maintained). Appellants submit the manhole serving the stormwater and sewage sewer at the Hettyfield junction floods, and that the proposal is therefore premature due to capacity constraints.
- 7.6.3. The applicant refutes the claims, noting the prior to commencement nature of the conditions, accepting that items requiring revisions (soakaway calculations) and final agreement (diversion of existing sewer) will be undertaken as part of final agreements with the planning authority. The appellant also highlights that Irish Water indicated the combined sewer system had sufficient capacity, that it was the planning authority's Drainage section that required the separate drainage systems, and that the latter indicates an engineering solution is possible and refusal of permission for the proposal is not warranted.
- 7.6.4. I have reviewed the application plans and particulars, including documentation from Irish Water (pre connection enquiry form, initial report), Drainage section reports, and appeal documentation including the consultant engineering documentation from the appellants and applicant. I note the timing of the reports (Irish Water report received after the Drainage section's report and planning authority's FI request), and I find the subsequent assessment by the planning authority (requirement for the separation of surface water and wastewater flows and the diversion route of the existing sewer, the incorporation of alternative surface water measures such as permeable paving and on-site soakaway, and satisfaction with the ground conditions, percolation tests, and distance between the diverted sewer and soakaway) to be reasonable and satisfactory. No other capacity issues for utilities infrastructure have been raised, including no impediment for connection to the public water supply. I note that the Irish Water report requires, by condition, a revised watermains layout at the connection application stage.

- 7.6.5. On balance, therefore, while I accept the appellants' position that a number of conditions (Conditions 10-14) require prior to commencement revised design and/ or final agreement, as the competent authorities for the water services infrastructure (Irish Water for wastewater and water supply, and the planning authority for surface water) both find the proposal to be acceptable subject to conditions (diversion agreement, revised layout, and engineering design solution), I am satisfied that the servicing of proposal can be achieved without adverse impact on the receiving area. In the event of a grant of permission, water and drainage servicing of the proposal, and any technical design items arising, can be addressed by condition.
- 7.6.6. Appellants raise concerns in relation to the planning authority not taking the soakaway and surface water system in charge (Condition 10) and question the manner in which the system will be maintained. I note that the likely solution to this item will be the establishment of a management company with responsibility for same. This is a conventional solution in such instances and allowed for under 2022 CDP policy (Section 11.122 requires areas of a development not being taken in charge to be maintained by and the responsibility of a private management company), and in event of a grant of permission, I consider the matter can be addressed by way of condition.
- 7.6.7. Finally, in respect of flood risk, while I note the claim of the appellants regarding flooding occurrence at the Hettyfield junction, this appears to be only associated with surface water flows in the existing combined sewer during times of heavy rainfall. I have reviewed available flooding sources and confirm the site is not located within any river or coastal flood extents, and there is no record of past flood events. The Strategic Flood Risk Assessment prepared for the 2022 CDP confirms same. In this regard, claims of flood risk have not been substantiated from data in the available records nor has an increase in flood risk to the area arising from the proposal been demonstrated in a flood risk assessment.

## 7.7. Title to Land

- 7.7.1. An appellant, property owners of Picardy located adjacent to the southwest of the site, objects to the proposed development in respect of the line of the shared boundary, the extent of the site, and the proposed boundary treatment along the shared boundary. The appellant submits that the boundary line between the

properties is incorrect and is based on a line of palm trees located within the appellant's property. The appellant submits the correct boundary line is that of the mature hedgerow with post and fencing therein, which is located c.1.5m north of the line of palm trees. The appellant submits that the boundary line relied upon by the applicant arises from incorrect mapping by the ordnance survey and replicated in the land registry details. The appeal includes an aerial photograph of the property with the outline of the land registry boundary indicated in red and showing the shared boundary line aligning with that of the palm trees. The appellant requests that the application be invalidated accordingly.

- 7.7.2. The applicant disputes the appellant's claim, stating to have full control over the site including the hedgerow. The response includes mapping details (boundaries outlined in red) for both properties (appeal site and Picardy) from land registry and refers to the drawings prepared for the planning application including the site survey plan.
- 7.7.3. While I note the appellant's appeal grounds and the accompanying report from a consultant surveyor, the claims of incorrect mapping are not verified or evidenced with any documentation and/ or official changes to ordnance survey and/ or land registry correcting the claimed error. That being, the claims are unsubstantiated.
- 7.7.4. Title to land is a legal issue with disputes and resolution being a matter for the courts. The Board can only rely on documentary evidence provided with the appeal case, which in this instance, includes the land registry records for both properties, aerial photography and a site survey, from which it would appear that the hedgerow is within the applicant's control. The landscape plan for the proposed development indicates boundary treatments (fence, additional hedge planting) adjacent to the existing vegetation within the appellant's property, the latter, it is understood to be referring to the line of palm trees.
- 7.7.5. In considering the issue of land ownership and property boundaries, I have had regard to the guidance in Section 5.1 of the Development Management Guidelines. The guidelines are clear that '[t]he planning system is not designed as a mechanism for resolving disputes about title to land or premises or rights over land; these are ultimately matters for resolution in the Courts' and refers to section 34(13) of the

2000 Act which states that a person is not entitled solely by reason of a permission to carry out any development.

- 7.7.6. The guidelines indicate that only in instances where it is clear that an applicant does not have sufficient legal interest in the subject lands should permission be refused on that basis, and that in instances where there is doubt as to the sufficiency of the legal interest the planning authority may decide to grant permission as such a grant is subject to the provisions of section 34(13) of the Act. That being, the developer must be certain under civil law that they have all rights in the subject land to execute the grant of permission.
- 7.7.7. Following my review of the case file, I consider that the applicant has provided documentary evidence demonstrating sufficient legal interest in the lands (letter of control from owner, copy of contract, land registry details). I am satisfied that, for planning purposes, the applicant has sufficient legal interest to rely on the site boundaries as indicated in the plans and particulars, subject to the restrictions explicit in section 34(13) of the 2000 Act.

## 7.8. **Other Issues**

- 7.8.1. Raised in the grounds of appeal is the adverse biodiversity impact on the area through the development of the site. From my site inspection and review of the case file, while I accept the site has a local amenity value, there is no ecological/ biodiversity designation or protection afforded to the site (as attested to in the applicant's Appropriate Assessment Screening Report included in the Planning Statement), the site is zoned and serviced, and there is no ecological impediment to its development.
- 7.8.2. As the site is zoned for residential purposes and the proposal is for residential development, consideration is required in respect of compliance with Part V requirements. The proposal initially comprised 12 dwelling units with one unit to be transferred to the City Council. The revised scheme with 9 dwelling units is not subject to Part V on demonstration of a valid section 97 exemption certificate. The FI and/ or CFI planner's reports do not refer to such an exemption certificate being in place, and I did not identify a record of one on the planning register. As such, I consider it necessary to address same by condition.

7.8.3. As the proposal is in excess of 5 dwellings, which are own-door units and fall within the definition of structure to be used as a dwelling, the provisions of the Commercial Institutional Investment Guidelines apply, and I consider that a condition to restrict the first occupation of these units as outlined by the guidelines should be attached.

## 7.9. **Appropriate Assessment Screening**

7.9.1. Having reviewed the applicant's Appropriate Assessment Screening Report, and having regard to the nature and scale of the proposed development, the location of the site within an adequately serviced urban area, the absence of ecological and/ or hydrological connections, and the physical separation distances to European Sites, I consider the potential of likely significant effects on European Sites arising from the proposed development, alone or in combination effects, can be reasonably excluded.

## 8.0 **Recommendation**

8.1. I recommend that permission be granted based on the following reasons and considerations, and subject to the attached conditions.

## 9.0 **Reasons and Considerations**

Having regard to the zoning objective of the site in the Cork City Development Plan 2022-2028, to the design and scale of the proposed development, to the infill nature of the site, and to the pattern of development in the vicinity, it is considered that the proposed development would not seriously injure the residential or visual amenities of the area or of property in the vicinity, would represent an appropriate residential density, would be acceptable in terms of traffic safety and convenience, would not endanger public health, and would comply with the relevant provisions of the Cork City Development Plan 2022-2028, the National Planning Framework, and the Sustainable Residential Development in Urban Areas, Guidelines for Planning Authorities. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 10.0 Conditions

1.	<p>The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further information plans and particulars submitted on the 14<sup>th</sup> day of July 2021, and by clarification of further information plans and particulars submitted on the 9<sup>th</sup> day of September 2021 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.</p> <p><b>Reason:</b> In the interest of clarity.</p>
2.	<p>Windows at first and second floor levels in the northern elevation of Dwellings 1, 5, 7 and in the southern elevation of Dwelling 9 shall be fitted with permanent obscure glazing and/ or be high level in design.</p> <p><b>Reason:</b> To prevent overlooking of adjoining property.</p>
3.	<p>Proposals for an estate/ street name, house numbering scheme, and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all estate/ street signs and house numbers, shall be provided in accordance with the agreed scheme.</p> <p><b>Reason:</b> In the interest of urban legibility.</p>
4.	<p>Details of the materials, colours, and textures of all the external finishes to the proposed development shall be as submitted with the application, unless otherwise agreed in writing with the planning authority prior to commencement of development. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.</p> <p><b>Reason:</b> In the interest of visual amenity.</p>
5.	<p>Construction and demolition waste from the proposed development shall be managed in accordance with a Construction and Demolition Waste</p>



	<p>Management Plan, which shall be submitted to and agreed in writing with, the planning authority prior to commencement of development.</p> <p>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 demolition and site clearance 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.</p> <p><b>Reason:</b> In the interest of sustainable waste management.</p>
6.	<p>Construction of the proposed 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.</p> <p>This plan shall include inter alia: details and location of site offices, staff facilities, site compounds, on-site parking facilities, storage locations (for plant, machinery, materials), intended construction practice for the development including noise and dust management measures, a construction traffic management plan with details on access arrangements, haulage routes, timing and routing details for deliveries and disposal trips, staff parking, measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network, and directional signage.</p> <p><b>Reason:</b> In the interests of amenity and public safety.</p>
7.	<p>Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.</p>

	<b>Reason:</b> In order to safeguard the amenities of properties in the vicinity.
8.	<p>All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. All existing over ground cables shall be relocated underground as part of the site development works.</p> <p><b>Reason:</b> In the interests of visual amenity.</p>
9.	<p>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/ installation of lighting. Such lighting shall be provided prior to the making available for occupation of any dwelling.</p> <p><b>Reason:</b> In the interests of amenity and public safety.</p>
10.	<p>(a) A site layout plan indicating the areas and/ or infrastructure to be taken in charge by the local authority shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p>(b) The management and maintenance of areas and/ or infrastructure not being taken in charge by the local authority shall be the responsibility of a legally constituted management company. A management scheme providing adequate measures for the future maintenance of same shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p><b>Reason:</b> To provide for the satisfactory future maintenance of this development in the interest residential amenity and public health.</p>
11.	<p>Drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works and services.</p> <p><b>Reason:</b> In the interest of public health and surface water management.</p>
12.	<p>The developer shall enter into water and/ or wastewater connection agreement(s) with Irish Water prior to commencement of development.</p> <p><b>Reason:</b> In the interest of public health.</p>

13.	<p>The internal road network serving the proposed development, including turning bays, junctions, parking areas, footpaths, and kerbs, shall be in accordance with all relevant provisions as outlined in the Design Manual for Urban Roads and Streets.</p> <p><b>Reason:</b> In the interest of amenity and of traffic and pedestrian safety</p>
14.	<p>The development shall not be a gated development.</p> <p><b>Reason:</b> In the interest of the proper development of the area.</p>
15.	<p>In-curtilage car parking spaces serving residential units shall be provided with electric connections to the exterior of the houses, and non-curtilage car parking spaces serving the residential units shall be provided with functional electric vehicle charging points to allow for the provision of future electric vehicle charging points. Details of how it is proposed to comply with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p><b>Reason:</b> To provide for and/ or future proof the development such as would facilitate the use of electric vehicles.</p>
16.	<p>A comprehensive boundary treatment and 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:</p> <ul style="list-style-type: none"> <li>(a) details of all proposed hard surface finishes including materials for footpaths, kerbing and road surfaces within the development;</li> <li>(b) proposed locations of trees and other landscape planting in the development, including details of proposed species and settings;</li> <li>(c) details of proposed street furniture, including bollards, lighting fixtures and seating;</li> <li>(d) details of proposed boundary treatments at the perimeter of the site, including wall/ fence heights, materials, and finishes.</li> </ul> <p>The boundary treatment and landscaping shall be carried out in accordance with the agreed scheme.</p>

	<p><b>Reason:</b> In the interest of visual amenity and to safeguard the amenities of properties in the vicinity.</p>
17.	<p>The area of public open space shown on the lodged plans shall be reserved for such use and shall be levelled and/ or contoured, as applicable, soiled, seeded, and landscaped in accordance with the landscape plans and report submitted to the planning authority with the application, unless otherwise agreed in writing with the planning authority. This work shall be completed before any of the dwellings are made available for occupation and shall be maintained as public open space by the developer until/ in the event that it is taken in charge by the local authority.</p> <p><b>Reason:</b> In order to ensure the satisfactory development of the public open space areas, and their continued use for this purpose.</p>
18.	<p>(a) A plan containing details for the management of waste within the development, including the provision of facilities for the storage, separation, and collection of the waste and, in particular, recyclable materials shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the waste shall be managed in accordance with the agreed plan.</p> <p>(b) The plan shall provide for screened bin stores, which shall accommodate not less than three standard-sized wheeled bins with the curtilage of each dwelling plot.</p> <p><b>Reason:</b> To provide for the appropriate management of waste and, in particular recyclable materials, in the interest of protecting the environment.</p>
19.	<p>Prior to the commencement of any house or duplex unit in the development as permitted, the applicant or any person with an interest in the land shall enter into an agreement with the planning authority (such agreement must specify the number and location of each house or duplex unit), pursuant to Section 47 of the Planning and Development Act 2000, as amended, that restricts all houses and duplex units permitted, to first</p>

	<p>occupation by individual purchasers i.e. those not being a corporate entity, and/ or by those eligible for the occupation of social and/ or affordable housing, including cost rental housing.</p> <p><b>Reason:</b> To restrict new housing development to use by persons of a particular class or description in order to ensure an adequate choice and supply of housing, including affordable housing, in the common good.</p>
20.	<p>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.</p> <p><b>Reason:</b> 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.</p>
21.	<p>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.</p>

	<p><b>Reason:</b> To ensure the satisfactory completion and maintenance of the development until taken in charge.</p>
22..	<p>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.</p> <p><b>Reason:</b> 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.</p>

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Phillippa Joyce

Senior Planning Inspector

4<sup>th</sup> October 2022