



An  
Bord  
Pleanála

## Inspector's Report ABP-313634-22

<b>Development</b>	Construction of 71 dwellinghouses together with all ancillary site development works with access via the estate road for Inis Alainn
<b>Location</b>	Inis Alainn, Carrignafoy, Cobh, Co. Cork
<b>Planning Authority</b>	Cork County Council
<b>Planning Authority Reg. Ref.</b>	21/05240
<b>Applicant(s)</b>	Wayleaf Ltd
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant, subject to 61 conditions
<b>Type of Appeal</b>	Third Party -v- Decision
<b>Appellant(s)</b>	1) Tom and Bernadette Butler 2) Daniel and Ella McCarthy
<b>Observer(s)</b>	1) Ann and Eoin Lane, 2) Margaret and William McMurty, 3) Paul McCarthy & Christine O'Shea McCarthy

**Date of Site Inspection**

4<sup>th</sup> August 2023

**Inspector**

Suzanne Kehely

## 1.0 Site Location and Description

- 1.1. The site of a stated 2.55 hectares is located in the northeastern suburbs of Cobh town, on elevated land c.1km from the town centre. It has frontage onto the estate road network within Inis Alainn on its eastern side and it also fronts onto a cul-de-sac to the west which serves as access to the reservoir/water utilities site, low density housing and GAA grounds to the southwest. Other services and amenities such as schools and leisure facilities are within walking distance. A bus service serves Carrignafoy Avenue to the south.
- 1.2. The site is part of a larger tract of land of over 8 hectares within which the existing Inis Alainn housing development has been constructed and is occupied and phase 1 development site where permission has been granted for 76 medium density housing and site works appear to have commenced.
- 1.3. The site is irregularly shaped reflecting natural boundaries to the north and a stepped boundary to the south with development lands (permission for housing . road works and services ). Apart from the access road into the subject site it is otherwise overgrown/fallow ground with a uneven and sloping terrain from northwest to southeast.

## 2.0 Proposed Development

- 2.1. The proposal is to construct:
  - 71 no. dwellings with 2, 3 or 4 bedrooms and in the form of terraced and semi-detached two storey houses and duplex /over apartment units. In further information the housing mix statement confirms 11 two-beds, 49 three-beds and 11 four-beds and overall density of 30.3 units/hectare. Open space is 3636 sq.m. (14.2%)
  - A creche facility for 54 children
- 2.2. General features:
  - The site layout shows this as phase 2 of the overall landholding outlined in blue and which also includes phase 1 - a lower density scheme to the south.(not constructed)

- The road layout provides for inter connection with the scheme previously permitted to the south in addition to pedestrian access to the west with the reservoir road/
- The layout incorporates a series of open spaces and tree planting along reservoir road.
- Phase 1 shows a road layout with wayleave along the reservoir access road to which the proposed road layout connects.

2.3. The application was accompanied by: a comprehensive set of drawings of site layout, and floor plans, elevations, and sections of the range of building types including bin stores. Details of bike stands also include. Written documents include.

- Planning statement which sets out the strategic compliance of the proposed housing scheme with the both the county wide development plan objectives and the specific objectives for Cobh.
- Part V Cost Methodology
- Phase 2 Services Report
- Design Report
- CGI Report.

2.4. Further information also provides for Part V units through the development, details of floor areas, boundary details and (rendered block on public side and timber post on concrete in party boundary fence in party front boundaries and gates,) layout and external render finishes with grey tiles and solar panel ad uPVC doors and downpipes /gutters.

## 3.0 Planning Authority Decision

### 3.1. Decision

3.1.1. Following receipt of further information, the planning authority issued an order of its decision to grant permission , subject to 61 conditions.

- C2 not more than 30 residential units shall be made available for occupation before completion of a childcare facility within the applicant's landholding. The location and scale of the childcare facility shall be subject of a separate planning application.

- C3 part v
- C4 material and finishes surfaces and boundaries and landscaping.
- C5 Construction Management Plan and other construction -c14, c16 c33
- C6 construction parking.
- C.7 and c9 c10entrance detail.
- C8 reinstate footpath.
- C12, 13 1 26, 27 5cdrainage 1
- C17 c18, 30 Eng spec for housing layout and road.
- C18, 19 bond.
- C20 wayleave retention by developer
- C21, 23, 25 maintenance of infrastructure open space til in charge/taking in charge occupancy.
- C24 as constructed drawings.
- C32 open space slope.
- C22 identification through private property – access to services.
- Detailed public lighting – 12 conditions.
- C11 set back of utility poles.

### 3.2. Planning Authority Reports

3.2.1. Planning Report: The applicant submitted satisfactory further information addressing concerns of the planning authority in respect of:

- Housing mix, pedestrian links, open space, Construction Manament, pedestrian gate , retaining structures, Irish Water requirements, , archaeological impact assessment, surface water waste, construction waste/waste and public lighting.

3.2.2. AA – no issues

3.2.3. Other Technical Reports

- Inland Fisheries Ireland: No objections

- Irish Water: Written confirmation required regarding connection public wastewater connection. Following receipt of further information, no objection subject to conditions.
- Internal Technical Reports
  - Area Engineer: no objection, subject to conditions.
  - Archaeologist: Further information required due to Recorded Monument s in surrounding area. CO087-073 Ringfort. Following receipt of further information, no objection, subject to a monitoring condition.
  - Public Lighting: Following receipt of further information, no objection, subject to conditions.
  - Environment: Following receipt of further information, No objection subject to conditions
  - Water Services: Following receipt of further information regarding pre-connection agreement with Irish Water, no objection, subject to conditions.
  - Housing Engineers: Initial report considers site is well located site for housing including social housing and that layout is in keeping with Guidelines on Quality Housing for Sustainable Communities. No objection subject to conditions.
  - Estates: no objection, subject to conditions regarding 1) Access from Inis Alainn and associated, footpath and lighting along L-7023, 2) CMP and, 3) retaining structures to north.

## 4.0 Planning History

4.1. The planning report provides a comprehensive history for the site and also for the adjacent lands. Of note:

- P.A. Reg. Ref. No. 19/04376 refers to an extant permission for the construction of 76 no. dwelling houses and all ancillary site development works in lands to the south within applicant's holding. The proposed development consists of the construction of 35 no. 3 bedroom semi-detached dwelling houses, 33 no. 3

bedroom terraced dwelling houses and 8 no. 2 bedroom terraced dwelling houses. Access to the proposed development is proposed via the estate entrance and internal road network of the existing Inis Álainn residential development.

- P.A. Reg. Ref. 204244. varies the above permission (April 2020) in relation to 14 houses and the omission of the creche provision as per condition 2. The report states:

The key issue with this application concerns the proposal to omit condition 2 of the permission granted under 19/4376 which requires that not more than 30 permitted units be made available for occupation before completion of a childcare facility (to be subject of a separate application). The reason behind imposing this condition is that, with 59 houses built and occupied under the governing permission, combined with the 69 permitted under 19/4376, the non-provision of a childcare facility for a combined total of 128 units conflicts with the Guidelines, which ordinarily requires a childcare facility of 20 places for a 75 unit development. In this application, a childcare needs assessment is submitted. It identifies that an existing purpose-built crèche which is located opposite the entrance to the estate has significant available capacity (21 places). The owner of this facility has indicated an intention to increase capacity subject to demand. In addition, the assessment indicates that 37 places are available within a 5 minute drive time of the site. This is a reasonable basis for relaxing the condition. Any future phases of housing development will need to include the provision of additional childcare places. In this regard, I note that the layout shows a future crèche inside the site's northern boundary.

- Pre-application consultation occurred.

## 5.0 Policy and Context

### 5.1. National Planning Guidelines

5.1.1. Rebuilding Ireland – The government's Action Plan on Housing and Homelessness and the National Planning Framework (NPF) – Ireland 2040 support the delivery of

new housing on appropriate sites. The government's Housing for All Plan (2021) identifies increasing housing supply as a critical action.

#### 5.1.2. Project Ireland 2040 - National Planning Framework (2018)

- National Policy Objective 4: Ensure the creation of attractive, liveable, well designed, high quality urban places that are home to diverse and integrated communities that enjoy a high quality of life and well-being. National Policy Objective 13: In urban areas, planning and related standards, including in particular building height and car parking, will be based on performance criteria that seek to achieve well-designed high quality outcomes in order to achieve targeted growth.

#### 5.2. **Cork Metropolitan Area Transport Strategy 2040**

5.2.1. This strategy has been developed by the National Transport Authority in collaboration with Cork County Council among other bodies and is a means to address transport needs in an integrated manner for what is described as the fastest growing city region Ireland. Dispersed patterns of residential development outside the site is identified as a key challenge as well as a high reliance on the private car for relatively short trips.

5.2.2. A key principle for CMATS is to reduce dependency on the private car within the CMA, while increasing the appeal of sustainable transport options. Another fundamental principle of the Strategy is to support the future growth of the CMA through the supply of an efficient transport network. Supporting measures have an important role to play in providing a future transport network that matches up to these principles. The full benefits of the significant investment that will be delivered under CMATS cannot be achieved through the provision of infrastructure alone, and



must be combined with the implementation of measures that support best use of that infrastructure.

### 5.3. Section 28 Ministerial Guideline

- Sustainable Residential Development in Urban Areas, Guidelines for Planning Authorities (2009) and the accompanying Urban Design Manual: A Best Practice Guide (2009) – Connectivity is a core principle.
- Urban Development and Building Heights, Guidelines for Planning Authorities (2018)
- Design Manual for Urban Roads and Streets (2013). This design guide promotes permeability and connectivity in housing layout, both new and retrospectively, in order to address car dependency through design. It advocates:
  - connectivity between destinations to promote higher levels of permeability and legibility for all users, in particular more sustainable forms of transport. This will allow people to move from place to place in a direct manner with greater route choice. In general, greater levels of connectivity are required between significant destinations, particularly those generating or attracting large volumes of traffic.
  - retrofitting while problematic ... Smarter Travel (2009) recognises that sustainable travel can be supported through retrofitting of a permeable network to increase connectivity levels and requires that local authorities prepare plans to retrofit areas in order to create more sustainable neighbourhoods. The dendritic nature of some of these street patterns often means that connection opportunities are very limited.

#### **5.4. Regional Spatial and Economic Strategy for the Southern Region 2020-2032 (RSES)**

5.4.1. The RSES provides a development framework for the Metropolitan Area Strategic Plan (MASP) covering Cork City and suburbs which includes Cobh.

• RPO 10: Compact Growth in Metropolitan Areas, includes; a. Prioritise housing and employment in locations within and contiguous to existing city footprints where it can be served by public transport, walking and cycling. b. Identify initiatives for the MASP areas, which will achieve the compact growth targets on brownfield and infill sites at a minimum and achieve the growth targets identified in each MASP. • Cork MASP Policy Objective 1, includes b. To promote the Cork Metropolitan Area as a cohesive metropolitan employment and property market where population and employment growth is integrated with: (i) the city centre as the primary location at the heart of the metropolitan area and region reinforced by; (ii) the continued regeneration, consolidation and infrastructure led growth of the city centre, Cork City Docklands, Tivoli and suburban areas, (iii) active land management initiatives to enable future infrastructure led expansion of the city and suburbs.

#### **5.5. The Cork County Development Plan 2022-2028**

5.5.1. The Cork County Development Plan 2022 was adopted by the Elected Members of Cork County Council on 25th April 2022. The Plan came into effect on 6th June 2022.

5.5.2. Chapter 4 – Housing- HOU 4-8: Building Height and Amenity: Support the provision of increased building height and densities in appropriate locations within the County, subject to the avoidance of undue impacts on the existing residential amenities. In mixed use schemes, proposals will include details of the sequencing of uses to

enable the activation of supporting services. New development greater than 4 storeys will be required .

5.5.3. Chapter 17 – Climate Action - Policy to deliver higher levels of growth in locations benefitting from high quality public transport corridors (in particular Carrigwohill, Midleton and Cobh, with increased levels of growth in Little Island)

5.5.4. The Cobh Local Area Plan 2017 is revoked by the adoption of the current CDP in 2022. Specific policies and objectives for Cobh as part of the Metropolitan Cork Strategic Planning Area:

- The land is in a defined urban area and is zoned residential. CH-R-12 objective Medium A density with mix of house types.
- The site is part of a single tract of 5.82 ha similarly designated land surrounded by residential and community tracts with the exception of rural lands to the north.
- Cobh municipal district policies and objectives are in chapter 2 of vol 4.
- Strategy set for this 2<sup>nd</sup> largest town in south cork area. No bus service – desire to improve bus.
- CH-GO-04 objective to provide for convenient and pleasant walking and cycling.
- CH-GO-05 objective to provide for connectivity.
- In elevated area designated as High landscape quality in the CDP.

## 6.0 Natural Heritage Designations

- Cork Harbour SPA (004030)
- Great Island Channel SAC (001028)

## 7.0 The Appeal

### 7.1. Grounds of Appeal

7.1.1. Tom and Bernadette Butler, Carrignafoy Avenue object to the proposed pedestrian access onto L7023 on grounds of health and safety having regard to

- The narrow alignment of the boreen type road.

- 2 blind bends , tight corners and no footpath facility.
- The heavy volume of vehicular traffic and footfall generated by the sport club – GAA pitch (members, players, families and visitors) and the water tower in addition to utility services such as post, waste collection and other.
- The additional traffic anticipated by the additional house (ref 20/5137) with 8 dwellings.
- The anticipated significant pedestrian traffic associated with the existing 59 dwellings and a further 71 dwellings that will be generated.
- There are also associated security concerns with footfall.
- The reference to a shortcut in the planning statements of the planning application details is considered to be flippant and does not reflect the serious concerns.

7.1.2. Daniel and Ella McCarthy, Carrignafof Avenue object to the proposed pedestrian access onto L7023 on similar grounds to the other appellant party. They also refer to:

- the use of scrambler bikes using the cul-de- sac and potential for intensification of these anti-social issues
- Additional pedestrian access is not needed as the L-3001 adequately serves the pedestrian end of Inis Alainn as it brings pedestrians to the Carrignafof road leading to shop, schools and sports clubs. This is the safest option.
- The 3-storey element – ‘apartment block’ - of the development is not in keeping with the existing houses in the area.

## 7.2. Applicant’s Response

7.2.1. The applicant makes the following comments:

- The site is part of an unfinished housing development permitted back in 2005 and the permission is welcomed. It follows detailed assessment and addressing legacy issues associated with the undeveloped land.
- It is noted that there is no objection in principle to the development and the objection centres on the pedestrian access to L-7023.

- The western pedestrian linkage arose from advice in pre-application discussion with the planning authority. The issue was subject to detailed requirement in the further information request wherein a proposal for a footpath was requested within the land ownership along the lane to L-7023 to facilitate pedestrian connectivity from the site to existing amenities in the area such as Cobh GAA club, Carrignafof Community College and various other education/ recreational outlets on Carrignafof Avenue to the south and the town centre.

### 7.3. Planning Authority Response

No further comments

### 7.4. Observations

7.4.1. Observations have been made from three parties: Ann and Eoin Lane, Margaret and William McMurty, Paul McCarthy & Christine O'Shea McCarthy, all of whom reside along the adjacent cul-de-sac bounding the site in Carrignafof. They primarily object to the pedestrian access proposed onto the cul-de-sac L-7023 – the lane way to the Water Tower. This is grounds relate to:

- anti-social behaviour: The access would potentially add to a current problem in the cul-sac of which the relevant authorities are aware.
- Pedestrian safety: The potential for 136 dwellings and crèche users would considerably add to pedestrian use of the cul-de-sac. It is pointed out that there are no pedestrian facilities along this road described as a 'boreen' and its configuration only provides for restricted car access. Its alignment has restricted visibility. Unauthorised access from the Spires development is considered to already pose a pedestrian risk. It is stated to be a busy access serving sports facilities and there have been 3 car accidents at the entrance in the previous 6 months. there is a therefore pedestrian safety issue further compounded by the construction of new houses with access onto the cul-de-sac.

## 7.5. Further Responses

None

## 8.0 EIA Screening

8.1. Having regard to the nature and scale of the proposed development being of a class but considerably below the threshold for EIA and following a preliminary examination of the nature, size and location of the proposed development in zoned land within Cobh development area, it is considered that there is no real likelihood of significant effects on the environment, and it is consequently concluded that EIA is not required.

## 9.0 Assessment

### 9.1. Issues

9.1.1. The appeal relates to matters of detail in a housing development for which the principle of housing is not at issue. This I consider is reasonable having regard to the planning history wherein the site is part of a larger handholding of a comprehensive housing development within zoned landed in Cobh urban area and less than 1km from the town centre. The matter of dispute centres primarily on the proposed pedestrian access which interconnects the development site to a cul-de sac laneway. The other matter relates to the height of the duplex units. Having regard to both the Development Plan and national policy for housing and noting the comprehensive appraisal by the planning authority regarding the overall development layout, housing mix and standards and infrastructure, I do not consider a detailed review of the principle of housing and development standards generally is warranted. I therefore consider the assessment is best served by focusing on the matters of dispute under the following headings:

- Pedestrian access
- Building height and character.

Appropriate assessment is also a mandatory requirement.

## 9.2. Pedestrian Access

- 9.2.1. Both the appellant parties and observing parties object to the pedestrian linkage from the proposed housing development onto the cul-de-sac to the west and along which they reside and which they state, is already heavily trafficked due to housing with direct vehicular access and the sports grounds.
- 9.2.2. The case is made by the objectors that the road lacks capacity as it, firstly, is poorly aligned in that it is both narrow and has sharp bends which are described as blind spots and secondly, has heavy traffic. The narrowness and lack of footpaths is submitted to restrict pedestrian access whereas the restricted visibility makes for unsafe pedestrian use. The additional pedestrian usage associated with permitted and the proposed development in adjacent lands with which the stie connects is considered to give rise to an excessive amount of pedestrian footfall relative to its capacity.
- 9.2.3. I note the planning authority has flagged the benefits of the pedestrian linkage to the west as proposed: On p.38 of the primary report it is stated that a 'pedestrian access would significantly enhance permeability and provide access to playing pitches to the west and southwest of the site'. I note this is stated notwithstanding the concerns expressed by local residents in written submission. In order to ensure its feasibility, further information was sought in respect of the grass margin fronting the cul-de-sac so as to improve the road conditions. This was in line with the considerations by the Estates Division of the planning authority and to its satisfaction. The applicant was for example requested to submit proposals for a footpath and lighting along the western boundary of the lands within the applicant's control adjoining the L7023 and to also explore further opportunities for better permeability throughout the overall site and to also clearly illustrate the footpath connection between the proposed development and the Inis Alainn development. While it is acknowledged as

unfortunate that a footpath cannot be provided at this time for the entire length of the L-7023 the, the connection to the sports ground is identified as being beneficial.

9.2.4. I have reviewed the policy documentation and note that the development plan supports the planning authority approach in its assessment and decision in requiring interconnectivity with the surrounding development. I refer the Board to objectives for Cobh as set out in Volume 4 of the CDP 2022-2028:

- CH-GO-04 Ensure that provision is made in proposals for new development, particularly for housing, employment, retail, and educational uses to provide safe, convenient and pleasant routes for walkers and cyclists, ultimately linking the development to the railway station, town centre and the other principal areas of the town for walkers and cyclists. Any such provision must have regard to the existing deficiencies in infrastructure and the requirement to ensure the delivery of adequate infrastructure ahead of or in tandem with the new development. In achieving this objective, special attention will be paid to the layout of the development, to latest DMURS standards, to ensure that appropriate measures are taken to establish a walking and cycling friendly environment.
- CH-GO-05 All development shall contribute to improved pedestrian and cyclist connectivity and shall include proposals for the provision of improved pedestrian / cycle access routes, provision of new footpaths or improvement of existing footpaths and provision of facilities for cyclists, as appropriate in accordance with the CMATS and the Cork Cycle Network Plan 2017 and supporting the implementation of the 10 minute town/neighbourhood concept. It is an objective of this plan that a network of designated walking and cycling routes shall be established to provide safe, convenient and pleasant routes between the town's main residential areas, schools, and town centre in accordance with the Cork Cycle Network Plan 2017.

9.2.5. Such objectives are further underlined by the strategic approach to connectivity as advocated in the Cork Metropolitan Area Transport Strategy which in turn accords good design principle as advocated in the Design Manual for Urban Roads and Streets. The more direct access provides for more convenient access to service and



amenities in the locality and along Carrignafoy Avenue. In terms of public transport, in this case, a bus service to Cork City stops at O'Neill Place on Carrignafoy Avenue which is c.450m from the proposed western access as compared to c.750 from The Drive in Inis Alainn. Pedestrian access in the western boundary in this case is, in the round, compatible in principle with good planning practice.

9.2.6. I accept that 71 dwellings in conjunction with the existing Inis Alainn housing will potentially generate and intensify footfall onto the cul-de-sac given the more direct route, to the GAA grounds in particular. The alternative is that residents will rely more on cars given the circuitous and considerably longer route and this intensification of vehicular traffic, given the alignment of the route, would, I consider, be more likely to give rise to a hazard along a road with restricted sightlines. Lack of connectivity is cited in DMURs as being the key reason in discouraging walking. To not provide such access would be contrary to best practice. While acknowledged by the council as being substandard, the upgrading of the road between the sports ground and the proposed pedestrian access, on balance, presents an opportunity for reducing vehicular traffic and also improving traffic safety. There is potential to provide traffic calming and urban landscaping in accordance with DMURS whereby traffic safety can be addressed to enhance pedestrian safety. The Board could consider a special contribution toward enhanced traffic calming measures.

9.2.7. The appellant and the observers also express concern over the likely exacerbation in anti-social behaviour as a result of the proposal. Reference is made to a shortcut route from the Spires and also use by scramblers. This has been considered by the planning authority and notably by the Estates Section and addressed by way of a requiring a widened section of the route with public lighting. I also note the urban design guidance in this regard and accordingly note the layout provides for overlooking and passive surveillance in addition to the provision of a widened and lit stretch along this route. The additional footfall by contributing to an enlivened streetscape also has potential to enhance the surveillance and safety of the area.

9.2.8. On balance I consider the benefits of enhanced connectivity and an alternative to car usage for short trips has potential for a safer environment and is in accordance with

the proper planning and sustainable development of the area. I do not consider the refusal of the pedestrian access is warranted.

9.2.9. With respect to conditions of permission relating to the gate and boundary, it is my understanding of the drawings ( 'site layout' - 1841-100 - submitted as FI in April 2022) that a gate is to restrict vehicular through access but would provide for access to the water tower if needed which is reasonable. The pedestrian access in the site layout however appears to be open as it should be if it is to serve its purpose whereas in the drawing entitled 'landscape boundaries' 1841-101 it shows a 1.8m high western boundary with gate. The retention of the wall height in this format would be a barrier to passive surveillance and the passive enjoyment of the open space from the west. This should be lowered with a railing if required. Such a matter should be subject to detailed agreement in the interest of clarity.

### 9.3. Building Height

9.3.1. One of the appellant parties objects to the three storey height in the proposed scheme . The appellant I note describes this element as an apartment block whereas in fact they are duplex units. This element is a minor part of a mix of housing types – such a mix being required by the planning authority in item 1 of its request for further information . There are 8 duplex units over 8 apartments in a 3 storey configuration with the remaining (majority) dwellings being two-storey in height. The taller buildings (at just over 13m above finished ground level as compared to a range of 9.5-10.4m for the houses) are comparatively illustrated on the site section drawings and are shown as being on the lower ground along the eastern boundary side of the site.

9.3.2. With an overall density of just over 30 units/hectare which is at the lower end for urban development, the site topography and the site layout which provides open space around the duplexes, I do not consider the building type or height to be incongruous with its environs as defined by built up residential areas on three sides. In this setting I do not consider duplex units in a three storey configuration to detract from the character of the area. I consider the proposed layout comprises an

appropriate house mix and typology and would not detract from the amenities of the area.

9.3.3. I further note the provisions for public transport investment and viability in CMATS and that under the Sustainable Residential Development in Urban Areas Guidelines, there is a reliance on higher densities along public transport corridors. In this context a reduction in dwelling units is unwarranted. Accordingly I do not consider three storey duplexes, by reason of height or type to constitute grounds for refusal.

#### 9.4. **Appropriate Assessment**

9.4.1. The development site is not located within or near to a European Site. The development site however is located within Cobh development area which is a town on Great Island surrounded by Cork Harbour, part of which falls within Cork Harbour SPA (004030) and Great Island Channel SAC (001028).

9.4.2. The proposal involves the construction of 71 dwellings in zoned and serviced lands where road works have already commenced on foot of a previous permission and is in effect partly brownfield.

9.4.3. Under Stage 1 Screening for Appropriate Assessment it is required to ascertain as to whether or not a proposal would be likely to have a significant effect either individually or in combination with other plans and projects on European sites.

9.4.4. The qualifying interests of the Cork Harbour SPA are:

Little Grebe (*Tachybaptus ruficollis*) [A004]

Great Crested Grebe (*Podiceps cristatus*) [A005]

Cormorant (*Phalacrocorax carbo*) [A017]

Grey Heron (*Ardea cinerea*) [A028]

Shelduck (*Tadorna tadorna*) [A048]

Wigeon (*Anas penelope*) [A050]

Teal (*Anas crecca*) [A052]

Pintail (*Anas acuta*) [A054]  
Shoveler (*Anas clypeata*) [A056]  
Red-breasted Merganser (*Mergus serrator*) [A069]  
Oystercatcher (*Haematopus ostralegus*) [A130]  
Golden Plover (*Pluvialis apricaria*) [A140]  
Grey Plover (*Pluvialis squatarola*) [A141]  
Lapwing (*Vanellus vanellus*) [A142]  
Dunlin (*Calidris alpina*) [A149]  
Black-tailed Godwit (*Limosa limosa*) [A156]  
Bar-tailed Godwit (*Limosa lapponica*) [A157]  
Curlew (*Numenius arquata*) [A160]  
Redshank (*Tringa totanus*) [A162]  
Black-headed Gull (*Chroicocephalus ridibundus*) [A179]  
Common Gull (*Larus canus*) [A182]  
Lesser Black-backed Gull (*Larus fuscus*) [A183]  
Common Tern (*Sterna hirundo*) [A193]  
Wetland and Waterbirds [A999]

The Conservation Objectives for each of these Qualifying Interests is to maintain its favourable conservation condition.

9.4.5. The Qualifying Interests of the Great Island SAC; Tidal Mudflats and Sandflats [1140 and ]Atlantic Salt Meadows [1330]. The respective Conservation Objectives are; to maintain its favourable conservation condition and to restore its favourable conservation condition.

9.4.6. In relation to the Qualifying Interests of the SPA, these bird species are unlikely to be reliant on the site for foraging or roosting given its suburban location set back from the coastline of Great Island. I note however that the site has a potential hydrological connection via surface water run-off and therefore in relation to the habitat of these bird species and the Qualifying Interest habitats of the SAC, I am of the opinion that

during the construction phase, “best practice” construction methods would ensure that the risk of contaminated water entering Cork Harbour via stormwater sewerage system would be minimised. During the operational phase, the stormwater discharged from the site would pass through normal hydrocarbon interceptor and an attenuation tank before being discharged to the public stormwater sewerage system at the greenfield site run-off rate. All such measures would be typically undertaken independently of the presence of the European sites. The volume of stormwater discharging to Cork Harbour would also be negligible.

9.4.7. I further note that the public foul water sewerage system in Cobh is connected to the Waste Water Treatment Plant (WWTP) at Shanbally, via a pipeline that passes underneath Cork Harbour, from where fully treated waste water discharges safely into the Lower Harbour. The system within the town is being upgraded. (Cobh Town Networks)

9.4.8. Other permitted developments in Cobh would similarly benefit from the in-situ link to the Shanbally WWTP and upgraded infrastructure.

9.4.9. I have considered the proposed development by reference to the requirements of Section 177U of the Planning and Development Act 2000 as amended. Having carried out Screening for Appropriate Assessment, I conclude that the proposed development individually or in combination with other plans or projects would not be likely to have a significant effect on European Site Nos. 004030 and 001028, or any other European site, in view of the site’s Conservation Objectives, and Appropriate Assessment (and submission of a NIS) is not therefore required.

9.4.10. This determination is based on the following:

- With respect to direct effects, the distance between the site and the nearest European sites, and
- With respect to indirect effects, the habitat of the site, which is unsuited to foraging or roosting by bird species that are Qualifying Interests for European Site No. 004030, the construction phase use of “best practice” methodologies to minimise the risk of contaminated water entering Cork Harbour via the public stormwater sewerage system, the operational phase contribution of

negligible volumes of stormwater to Cork Harbour, and recent and on-going improvements to the public foul water sewerage system, designed to ensure that only fully treated waste water is discharged to the Lower Harbour.

In making this screening determination no account has been taken of any measures intended to avoid or reduce potentially harmful effects of the project on a European site.

#### **9.5. Other matters**

9.5.1. I consider the timber fencing in the front garden should be omitted and replaced with walls and that this should be addressed in conditions.

9.5.2. I note there are 61 conditions which I consider could be rationalised in a more standard and grouped approach while meeting the requirements of the planning authority in accordance good development management practice. Some matters are related to detailed technical specifications for the respective divisions of the county council and are governed by separate codes. I propose that condition for the retaining structures be kept with minor edits given the uniqueness and public safety aspect for the terrain. I suggest a modification in the wording to include certification by an 'indemnified' structural engineer and removing the 120 year life requirement. The Board may also consider omitting the reference to a safety report in the last point in view of these edits.

9.5.3. I also note that the circular Letter: PL 04/202 issued by the Department of Housing, Local Government and Heritage provides for a Temporary Time Limited Waiver in respect of section 48 Development Contributions and that this is currently applicable.

9.5.4. Accordingly if the Board is of a mind to grant permission, I recommend fewer conditions including the omission of the specified amount in the section 48 condition. The Board may wish to attach a note advising of the waiver in the event of the development commencing prior to April 2024.

## 10.0 Recommendation

In view of the foregoing assessment I recommend that permission for the proposed development be granted based on the following reasons and considerations.

### Reasons and Considerations

Having regard to:

- (a) The location, design, scale and layout of the proposed development,
- (b) The pattern of development in the area,
- (c) The provisions of the Cork County Development Plan 2023-2028 in respect of connectivity and specially the objectives for connectivity in Cobh town (CH-GO-04 and CH-GO-05) as set out in Chapter 2 of Volume 4,
- (d) The Cork Metropolitan Area Transport Strategy and its reliance on alternatives to car usage for short trips,
- (e) Sustainable Residential Development in Urban Areas Guidelines for Planning Authorities (2009),
- (f) Design Manual for Urban Roads and Streets (2013) which promotes permeability and connectivity in housing layout,

It is considered that, subject to conditions, the proposed residential development providing pedestrian access along the western boundary and providing for pedestrian connectivity throughout the site and with adjoining development is in accordance with the development plan objectives for such connectivity and is an integral part to achieving sustainable transport objectives such as providing for alternative modes to private car usage and viable public transport. It is furthermore considered that the proposed layout which incorporates a mix of house types is in accordance with good planning practice and the proposed development would be acceptable in terms of traffic safety and protecting residential amenities of the area. No Appropriate Assessment issues arise. The proposal would therefore be in accordance with the proper planning and sustainable development of the area.

## 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 9<sup>th</sup> day of December 2021 and 7<sup>th</sup> day of April 2022, 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. (a) Front garden boundary walls which shall replace proposed 1 metre high timber fencing in front gardens, shall be of block construction, rendered and suitably capped and finished in a material that matches the external finish of the dwellings.  
  
(b) The 1.8m high boundary wall along the proposed open space along the western site boundary shall be lowered to no higher than 1.2m and topped with a decorative railing, (not palisade fencing.)

Such details, including, height and delineation shall be submitted for written agreement of the planning authority prior to commencement of development.

**Reason:** In the interest of residential and visual amenity.

3. The development shall be carried out on a phased basis, in accordance with a phasing scheme which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of any development.



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

4. 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. This scheme shall include the following:

(a) A plan to scale of not less than 1:500 showing –

(i) The species, variety, number, size and locations of all proposed trees and shrubs which shall comprise predominantly native species such as mountain ash, birch, willow, sycamore, pine, oak, hawthorn, holly, hazel, beech or alder.

(ii) Details of roadside/street planting which shall not include prunus species.

(iii) Details of retaining structures and features.

(iv) Hard landscaping works, specifying surfacing materials, furniture and finished levels.

(b) Specifications for mounding, levelling, cultivation and other operations associated with plant and grass establishment.

(c) A timescale for implementation.

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.

5. The developer shall facilitate the preservation, recording and protection of archaeological materials or features that may exist within the site. In this

regard, the developer shall -

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

(b) employ a suitably-qualified archaeologist who shall monitor all site investigations and other excavation works, and

(c) provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove.

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

**Reason:** In order to conserve the archaeological heritage of the site and to secure the preservation and protection of any remains that may exist within the site.

6. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including hours of working, noise management measures and off-site disposal of construction/demolition waste.

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

7. Prior to the commencement of development, a detailed and site-specific Construction Traffic Management Plan for the proposed development shall be submitted to and agreed in writing with the planning authority.

**Reason:** In the interest of traffic management and road safety.

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

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

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

**Reason:** In the interest of visual amenity.

10. Prior to commencement of development, the developer shall enter into water and waste water connection agreements with Irish Water.

**Reason:** In the interest of public health.

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

**Reason:** In the interest of public health.

12. (a) The site entrances, internal road network serving the proposed development, including the turning head, site access point, parking areas,

footpaths and kerbs, road markings, and signage shall comply with the detailed standards of the planning authority for such road works.

(b) The footpath layout along the site boundaries as shown on drawings submitted to the planning authority shall be provided in accordance with detailed alignments, materials and finishes to be agreed in writing with the planning authority. Any dishing of the public footpaths required to facilitate the development shall be carried out the developer's expense.

(c ) The pedestrian access in the western boundary shall remain open and unobstructed at all times and only in exceptional circumstances shall it be closed. In the event of a gate, details shall be submitted for its design, locking mechanism (if any) and management.

(d) The vehicular access in the western boundary shall be gated and shall only be used for essential infrastructural services for the housing development.

All such details shall be submitted to the planning authority for written agreement prior to commencement of development on site.

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

13. A minimum of 10% of all communal car parking spaces shall be provided with functioning EV charging stations/points, and ducting shall be provided for all remaining car parking spaces, including in-curtilage spaces, to facilitate the installation of EV charging points/stations at a later date. Where proposals relating to the installation of EV ducting and charging stations/points has not been submitted with the application, in accordance with the above noted requirements, such proposals shall be submitted and agreed in writing with the Planning Authority before making available by the developer for occupation of the residential units in the proposed development.

**Reason:** To provide for and/or future proof the development such as would facilitate the use of Electric Vehicles.

14. (a) A plan containing details for the management of waste (and, in particular, recyclable materials) within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials [and for the ongoing operation of these facilities] 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.

(b) This plan shall provide for screened bin stores, which shall accommodate not less than three standard-sized wheeled bins within the curtilage of each house plot.

**Reason:** In the interest of residential amenity, and to ensure the provision of adequate refuse storage.

15. The developer shall construct all retaining structures as per submitted drawings. The structures included in or impacting on any area to be taken in charge by Cork County Council (at the Council's discretion) shall be separately identified on the drawings. Retaining structures that are classified as private boundaries by the planning authority will not be taken in charge. Prior to commencement of construction the developer shall submit for each retaining structure a construction layout plan/drawing showing the extent of the entire structure proposed and any ancillary structure along with the cross-section detail. The site investigation details and geotechnical assumptions on which the design has been based shall also be submitted. The descriptions, lengths and retained dimensions of each structure shall also be clearly shown. Prio to commencement of construction the developer shall submit a certificate from a suitably qualified and indemnified structural engineer confirming to the satisfaction of the planning authority that:

- The retaining structures have been designed in accordance with relevant standards and best practice,
- The design surcharge and live loadings are adequate,
- The designs have been correctly transferred to contract and construction drawings construction.

Within 6 months of completion of construction or as otherwise agreed with the planning authority, the developer shall submit, for all retaining structures:

- Structural design calculation with full reference to design standards,
- As built drawings and relevant details of all retaining structures including ground conditions encountered during construction,
- Certification of the design engineer confirming construction as per design and as per as built drawings. Alternatively this certification shall be provided by a suitably qualified structural engineer to the Council's satisfaction.
- Other data that would be available for preparation of a safety file for the retaining structure in accordance with the current safety, health and welfare at work (construction) regulations.

**Reason:** In the interest of public safety.

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

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

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

**Reason:** In the interests of visual and residential amenity.

18. Proposals for an estate/street name, apartment numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all estate and street signs, and apartment numbers, shall be provided in accordance with the agreed scheme. No advertisements/marketing signage relating to the name(s) of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name(s).

**Reason:** In the interest of urban legibility.

19. (a) The communal open spaces, including hard and soft landscaping, car parking areas and access ways, communal refuse/bin storage and any areas not intended to be taken in charge by the local authority, shall be maintained by a legally constituted management company.

(b) Details of the management company contract, and drawings/particulars describing the parts of the development for which the company would have responsibility, shall be submitted to, and agreed in writing with, the planning authority before any of the residential units are made available for occupation.

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

20. 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.

21. Prior to the commencement of the development as permitted, the applicant or any person with an interest in the land shall enter into an agreement with the planning authority pursuant to Section 47 of the Planning and Development Act 2000, that restricts all residential units permitted ( the number and location of each housing unit being specified in such agreement), to first 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.

b) An agreement pursuant to Section 47 shall be applicable for the period of duration of the planning permission, except where after not less than two years from the date of completion of each housing unit, it is demonstrated to the satisfaction of the planning authority that it has it has not been possible to transact each of the residential units for use by individual purchasers and/or to those eligible for the occupation of social and/or affordable housing, including cost rental housing.

c) The determination of the planning authority as required in (b) shall be subject to receipt by the planning and housing authority of satisfactory



documentary evidence from the applicant or any person with an interest in the land regarding the sales and marketing of the specified residential units, in which case the planning authority shall confirm in writing to the developer or any person with an interest in the land, that the Section 47 agreement has been terminated and that the requirement of this planning condition has been discharged in respect of each specified housing unit.

**Reason:** 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.

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

**Reason:** To ensure the satisfactory completion of the development.

23. 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.

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Suzanne Kehely  
Senior Planning Inspector

11<sup>th</sup> December 2023