



An  
Bord  
Pleanála

## Inspector's Report

### ABP-314235-22

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<b>Development</b>	Construction of 30 residential units.
<b>Location</b>	Model Village, Deeshart (townland), Dripsey, Co. Cork
<b>Planning Authority</b>	Cork County Council
<b>Planning Authority Reg. Ref.</b>	217466
<b>Applicant(s)</b>	Hunol Developments Limited
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant with Conditions
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Maureen O'Brien
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	April 14 <sup>th</sup> 2023
<b>Inspector</b>	Adrian Ormsby

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## 1.0 Site Location and Description

- 1.1. The site is located to the north west of Dripsey Model Village approximately 19km west of Cork City. The site is accessed off an existing and established residential estate known as Dysart Woods. The site is overgrown in appearance from Dysart Woods and is locally elevated. The site is not in any apparent existing use.
- 1.2. The site is bound along its southern and eastern boundaries by Dysart Woods and 4 standalone dwellings along O'Callaghan Place. The properties on O'Callaghan Place are on higher ground than the application site with a notable level difference evident from the rear of No. 8 O'Callaghan Place.
- 1.3. No 8 O'Callaghan Place (the Appellants property) is a single storey style house to the front elevation with a two storey dormer style rear return. This includes a rectangular proportioned bay window along its rear elevation with glazing facing north, west and south. I have measured this bay window to be c. 2.3m from the rear boundary wooden fence which bounds the application site. The fence ranges from c. 1.1m to c.1.5m high along the rear boundary of the house. I note what appears to be recent hedgerow planting in front of this fencing.
- 1.4. The entrance to the site is located approximately 150m north east of the Dripsey River. The site has a stated area of 1.7ha.

## 2.0 Proposed Development

- 2.1. The application comprises of-
  - 30 residential units
    - 4 no. 3 bed townhouses,
    - 3 no. 2 bed townhouses,
    - 18 no. 3 bed semi-detached units,
    - 4 no. 4 bed semi-detached units and
    - 1 no. 4 bed detached unit.

- works to the existing vehicular access from O'Callaghan Place, car parking, lighting, photovoltaic panels, hard and soft landscaping, boundary treatments and all other works.
- The Application proposes connecting to existing public services and is accompanied by an Uisce Eireann Pre-Connection Enquiry which detail a water supply and wastewater connection are feasible with infrastructure upgrade.

2.2. The Planning Authority (PA) issued a detailed Further Information (FI) request on the 23/02/22 in relation to the following-

- Concerns raised in relation to scale of the development in the settlement, the cumulative impact of the proposed development and the planned second phase of the masterplan. A reduction in overall numbers may be required.
- Housing mix
- Design and layout
- Recreation and Amenity
- Engineering and Infrastructure
- Public lighting and
- Part V

2.3. The Applicants submitted their FI Response (RFI) on the 6<sup>th</sup> of May 2022 with the proposal revised as follows-

- 18 Residential units
  - 2 no. 3 bed townhouses (106.2 sq.m)
  - 1 no. 2 bed townhouses (84 sq.m)
  - 11 no. 3 bed semi-detached units (113 sq.m)
  - 1 no. 3 bed semi-detached units (124.6 sq.m)
  - 2 no. 4 bed semi-detached units and (136 sq.m)
  - 1 no. 4 bed detached unit (153.8 sq.m)
- Omission of units 19-30 of original layout omitted

- A density of 16 units per ha

2.4. The Planning Authority requested the RFI to be readvertised as Significant Further Information on the 01/06/22. The Applicant submitted copies of new public notices on the 09/06/22.

## 3.0 Planning Authority Decision

### 3.1. Decision

3.1.1. The Planning Authority decided to grant permission on the 06/07/22, subject to 38 conditions.

## 4.0 Planning Authority Reports

### 4.1. Planning Reports

4.1.1. The planning reports generally reflect the decision of the Planning Authority. The following is noted-

- The application has been reduced to 18 units with 12 omitted. This is in keeping with Development Objective as set out in Volume 4 of the CDP 2022-28.
- Any future application on the remaining lands will be assessed on the merits and the policies and objectives pertaining to the site at that time.
- The proposed housing mix although dominated by three bed semi's is acceptable.
- A new pedestrian access is provided from the site near No. 12 Dysart Woods
- A special contribution should apply for the surfacing of a 40m section of the carriageway around the entrance based on a calculating of 40m x 6m wide x €70 = €16,800.

### 4.2. Other Technical Reports

- Estates

- 23/02/22- No objections
- Area Engineer-
  - 21/02/22- Further Information required in relation to local road network, scale of the development, footpaths, turning area and size of storm outfall pipe.
- Public Lighting-
  - 28/01/22- Further Information required
- Housing Officer-
  - 27/01/22- Further Information required in relation to Part V provision

#### 4.3. **Prescribed Bodies**

- Inland Fisheries Ireland-
  - 18/01/22- IW to signify there is sufficient capacity.
- Irish Water-
  - 23/02/22- No objection subject to constraints outlined in the Confirmation of Feasibility and typical conditions.

#### 4.4. **Third Party Observations**

4.4.1. Two third party submissions were received. Matters relevant to planning can generally be summarised as follows-

- Those matters as raised in the appeal and summarised in section 7.1 below
- There is a boundary dispute, surface water dispute
- Boundary Treatments
- House type and character of area
- Impacts upon existing residential amenity
- Poor existing road infrastructure and impacts upon same
- Inaccurate drawings

- Issues with drainage in the village
- Existing new housing in the village has not sold
- Absence of a construction management plan
- Disingenuous discussions/ agreements with developer.

4.4.2. Two further third party submission were received on the Significant RFI submission (13/06/22). Both of these appear to be from residents of No. 8 O'Callaghan Place one of whom is the Appellant. The concerns raised are generally those highlighted initially and in the Appeal.

## 5.0 Planning History

5.1. This site-

- None relevant or recent in last five years

5.2. Adjoining/nearby Sites-

- No. 8. O'Callaghan Place adjoining eastern boundary of site and Appellants address.
  - 21/5013- Permission granted 11/01/2022 for retention of domestic garage adjacent to existing dwelling. I have reviewed the online FI drawings<sup>1</sup> for this application and note the bay window at the rear of the house is shown to be 2.2m from the rear boundary.
  - 16/5581- Permission granted 26/09/2016 for Retention of 2 storey extension to rear of existing single storey dwelling house etc. I have reviewed the online 'Site Layout Drawing'<sup>2</sup> and note the bay window at the rear of the house is shown to be 3.843m from the rear boundary.

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<sup>1</sup> <http://planningdocs.corkcoco.ie/PlanningDocumentDisplay/documents/18a-215013> (accessed 05/07/23)

<sup>2</sup> <http://planningdocs.corkcoco.ie/PlanningDocumentDisplay/documents/18a-165581> (accessed 05/07/23)



## 6.0 Policy Context

### 6.1. National Planning Framework (NPF)

- 6.1.1. The NPF seeks to focus growth on cities, towns and villages with an overall aim of achieving higher densities than have been achieved to date.

#### *National Strategic Outcome 1 Compact Growth*

*From an urban development perspective, we will need to deliver a greater proportion of residential development within existing built-up areas of our cities, towns and villages and ensuring that, when it comes to choosing a home, there are viable attractive alternatives available to people.*

*Combined with a focus on infill development, integrated transport and promoting regeneration and revitalisation of urban areas, pursuing a compact growth policy at national, regional and local level will secure a more sustainable future for our settlements and for our communities.....*

- 6.1.2. The various policies in the NPF are structured under National Policy Objectives (NPOs). Relevant National Policy Objectives include-

- *3c- Deliver at least 30% of all new homes that are targeted in settlements other than the five Cities and their suburbs, within their existing built-up footprints<sup>3</sup>.*
- *6- Regenerate and rejuvenate cities, towns and villages of all types and scale as environmental assets, that can accommodate changing roles and functions, increased residential population and employment activity and enhanced levels of amenity and design quality, in order to sustainably influence and support their surrounding area.*
- *9- In each Regional Assembly area, settlements not identified in Policy 2a or 2b of this Framework<sup>4</sup>, may be identified for significant (i.e. 30% or more*

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<sup>3</sup> This means within the existing built-up footprint of all sizes of urban settlement, as defined by the CSO in line with UN criteria i.e. having a minimum of 50 occupied dwellings, with a maximum distance between any dwelling and the building closest to it of 100 metres, and where there is evidence of an urban centre (shop, school etc.).

<sup>4</sup> Model Village is a settlement and not identified in Policy 2a or 2b of the NPF.

above 2016 population levels) rates of population growth at regional and local planning stages, provided this is subject to:

- *Agreement (regional assembly, metropolitan area and/or local authority as appropriate);*
  - *Balance with strategies for other urban and rural areas (regional assembly, metropolitan area and/or local authority as appropriate), which means that the totality of planned population growth has to be in line with the overall growth target; and*
  - *A co-ordinated strategy that ensures alignment with investment in infrastructure and the provision of employment, together with supporting amenities and services.*
- *11- In meeting urban development requirements, there will be a presumption in favour of development that can encourage more people and generate more jobs and activity within existing cities, towns and villages, subject to development meeting appropriate planning standards and achieving targeted growth.*

6.1.3. Other relevant sections include-

Section 2.6 Securing Compact and Sustainable Growth states-

*An increase in the proportion of more compact forms of growth in the development of settlements of all sizes, from the largest city to the smallest village, has the potential to make a transformational difference. It can bring new life and footfall, contribute to the viability of services, shops and public transport, increase housing supply and enable more people to be closer to employment and recreational opportunities, as well as to walk or cycle more and use the car less.*

## **6.2. Regional Spatial & Economic Strategy for the Southern Region**

6.2.1. The Southern Region's strategy is to build a strong, resilient and sustainable region. It identifies eleven 'Statements of the Strategy' including-

*1. Compact Growth- Strengthening and growing our cities and metropolitan areas; harnessing the combined strength of our 3 cities as a counterbalance*

*to the Greater Dublin Area, though quality development; regeneration and compact growth; building on the strong network of towns and supporting our villages and rural areas.*

- The Strategy focuses on ‘Key enablers’ including-  
*Revitalising Rural Areas through readapting our small towns and villages and increasing collaboration between networks of settlements to seek higher value, diversified jobs for a higher quality of life*
- Map 3.3 (page 41) identifies the Cork - MASP Metropolitan Area Strategic Plan.
- Table 3.2 of the RSES identifies settlement types categories and identifies Towns & Villages to be identified in Development Plans.

### **6.3. Ministerial Guidelines, Circulars and other Guidance**

- 6.3.1. Circular Letter: NRUP 02/2021- Residential Densities in Towns and Villages, as set out in Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (2009)-

#### ***Development within Small Towns and Villages***

*Small town and villages are defined within Section 6.0 of the Sustainable Residential Development Guidelines as those with a population ranging from 400 to 5,000 persons. Section 6.11 of the Guidance provides a more clearly graduated approach to the application of densities within such locations, namely:*

- *Centrally located sites: 30-40+ dwellings per hectare;*
- *Edge of centre sites: 20-35 dwellings per hectare;*
- *Edge of small town/village: 15 - 20 dwellings per hectare.*

- 6.3.2. Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (including the associated Urban Design Manual) (2009)-

- Chapter 6 Small towns and villages- provides detailed guidance on development within smaller towns and villages, with particular emphasis on the role of housing.

- Section 6.12 deals with ‘Edge of small town / village’ and states-  
*“In order to offer an effective alternative to the provision of single houses in surrounding unserviced rural areas, it is appropriate in controlled circumstances to consider proposals for developments with densities of less than 15 - 20 dwellings per hectare along or inside the edge of smaller towns and villages, as long as such lower density development does not represent more than about 20% of the total new planned housing stock of the small town or village in question.”*

6.3.3. Guidance with quantitative methods for daylight and sunlight assessment are detailed in-

- BRE209 - Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice’ 2022 edition

#### 6.4. **Cork County Development Plan 2022-2028 (CDP)**

- The Plan came into effect on 6<sup>th</sup> of June 2022.
- Figure 1.3 of Volume 1 of the CDP identifies Dripsey Model Village as located in the Cork Metropolitan Area Strategic Planning (MASP) as per the RSES.

##### 6.4.1. **Volume 1**

- Volume 1 of the Plan sets out the main policy material of the CDP and Chapter 3 deals with ‘*Settlements and Placemaking*’ where it is the stated vision of the plan-

*“to protect and enhance the unique identity and character of County Cork’s towns and villages and improve quality of life and well-being through the delivery of healthy placemaking underpinned by good urban design, with the creation of attractive public spaces that are vibrant, distinctive, safe and accessible and which promote and facilitate positive social interaction and supports the needs of the community.”*

- Chapter 4 deals with ‘Housing’

- Section 4.10.8 states- *“All proposals for residential development.....shall provide for acceptable separation distances between blocks to avoid negative effects such as excessive overlooking, overbearing and overshadowing effects and provide sustainable residential amenity conditions and open spaces. A minimum clearance distance of 22 metres, in general, is required, between opposing windows in the case of apartments up to three storeys in height.”*

#### 6.4.2. Volume 4

- Model Village Dripsey is located in the East Cork Municipal District to which Volume 4 of the CDP (South Cork) relates.
- Section 4.21.1 details that Dripsey is made up of three nodes of development, Model Village, Upper Dripsey and Lower Dripsey. Upper Dripsey and Model Village are established villages with Model Village forming the residential core of the area.
- The site is located within the Settlement Boundary as per page 401 of Volume 4. There are three stated ‘Development Boundary Objectives’ as follows-
  - *DB-01 Within the development boundary encourage the development of up to 30 additional dwelling units during the plan period.*
  - *DB-02 Development in Model Village and within the core of the village must be designed to a high standard to reinforce the existing pattern of growth and character of the area.*
  - *DB-03 New development should be sensitively designed and planned to provide for the protection of green infrastructure assets of the village and will only be permitted where it is shown that it is compatible with the requirements of nature conservation directives and with environmental, biodiversity and landscape protection policies as set out in Volume One Main Policy Material and Volume Two Heritage and Amenity.*

## 6.5. Natural Heritage Designations

- None in close proximity or considered relevant to the nature of the appeal.

## 6.6. EIA Screening

6.6.1. Class (10)(b) of Schedule 5 Part 2 of the Planning and Development Regulations 2001 (as amended) provides that mandatory EIA is required for the following classes of development:

- Construction of more than 500 dwelling units,
- Urban development which would involve an area greater than 2 ha in the case of a business district, 10 ha in the case of other parts of a built-up area<sup>5</sup> and 20 ha elsewhere. (In this paragraph, “business district” means a district within a city or town in which the predominant land use is retail or commercial use.)

6.6.2. The application originally proposed to construct 30 units and then 18 units following the submission of FI. The number of units proposed is well below the threshold of 500 dwelling units noted above. The application site has an overall stated area of 1.7 ha and in this context it is considered as located ‘elsewhere’ as Model Village is not considered a ‘town’ under Section 10 (3) (b) and Schedule 6 Part 2 of the Local Government Act of 2001. The site area is therefore well below the applicable threshold of 20 ha.

6.6.3. The introduction of a residential development as proposed will not have an adverse impact in environmental terms on surrounding land uses. The site is not designated for the protection of the landscape or of natural or cultural heritage. Designated structures of built heritage or archaeological significance are remote of the site.

6.6.4. The development proposes connecting to the public water and drainage services of Irish Water and Cork County Council. Surface water, allowing for attenuation (319 m<sup>3</sup> tank) will discharge to the existing 450mm storm sewer on the access road into Dysart Woods. In this context I am satisfied that the proposed development would

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<sup>5</sup> Built-up Area’ means a city or town (where ‘city’ and ‘town’ have the meaning assigned to them by the Local Government Act 2001) or an adjoining developed area (defined in Article 3, Planning and Development Regulations 2001 as amended). An adjoining developed area can be taken to mean contiguous suburbs.

not give rise to waste, pollution or nuisances that differ from that arising from other developments in the general area. It would not give rise to a risk of major accidents or risks to human health.

6.6.5. The application site is not directly connected to a European Site. I note the proximity of the site to the River Dripsey c. 150m west of the site. This may provide an indirect hydrological connection to the Cork Harbour SPA i.e. a European Site. However any such impacts are not considered likely in an EIA context given the hydrological distance, likely dilution of any potential pollutants etc.

6.6.6. I consider 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 upon 'Preliminary Examination', an 'Environmental Impact Assessment Report' for the proposed development was not necessary in this case

## **7.0 The Appeal**

### **7.1. Grounds of Appeal**

One third party appeal has been received from Maureen O'Brien, 8 O'Callaghan Place, Deeshart, Dripsey dated 22/07/2022. The grounds of appeal can be summarised as follows-

- There are concerns regarding the proximity and height of the proposed 2 storey houses to the rear of the Appellant's property.
- There is a bay windows at the rear of the Appellants property 2m from the site boundary. The drawings show it at 3.5m.
- The proposed 2m high wire mesh fence and screening will block most of the sun/natural light at the bay window.
- Proposed bedrooms will be at a similar level to the Appellants ground floor impacting upon privacy. Single storey houses would help protect privacy.
- An agreement was reached with the Developer to acquire land to protect the Appellant's privacy. The developer has defaulted on this.

- The drawings incorrectly show the separation distances as 24m when it is in fact 22 metres.
- Impacts upon privacy and loss of light will devalue the Appellant's property.
- The existing road and footpath network is in poor repair. It is not suitable for 36 additional cars plus other vehicles.
- Is one house enough to comply with Part V.
- There will be further phases of development. The remainder of the landholding should be used for amenity purposes and sterilised from development.
- Any proposed extensions in the future should not benefit from exemptions.
- A submission to the council (dated 13/06/22) is included.

## 7.2. Applicant Response

The Applicants response to the Appeal can be summarised as follows-

- The grounds of the appeal are identical to matters raised in the application process.
- A number of the grounds are subjective and unsubstantiated in nature.
- The permitted layout provides separation distances in excess of 22m and a landscaped buffer. This protects the privacy and amenities of adjoining properties.
- The proximity of the appellants property to the boundary is a result of unauthorised development i.e. the extension to the Appellants house.
- It was the Appellants retention application for their extension that showed it would be 3.8m from the rear site boundary.
- The Appellants property also has two skylights which serve the living room in addition to the bay window.
- Planting already exists along the site boundaries. Fencing is appropriate to ensure safety of future occupants and the residents of O'Callaghan Place.



- There is a steep level change from the appellants property to the proposed dwellings of c. 4m. This change should not see proposed landscaping impacting daylight or privacy.
- There was a previous grant of permission for 70 houses on this site 04/6019.
- Future development will be subject to future applications which will be assessed on their own merits. Sterilisation of these lands would be contrary to National and Regional Policy.
- Dripsey Model Village will benefit from a new wastewater treatment facility serving a population equivalent of 600 people. Delivery of future housing will justify such capital investment.
- The Applicants will accept the Council's condition requiring a contribution to upgrade the roads at the site entrance. It is not appealed.
- The Council have no objection to the provision of one house as per Part V requirements.
- The proposal is in accordance with Development Plan restrictions for Dripsey which allows a maximum of 30 new houses within the lifetime of the plan.

### **7.3. Planning Authority Response**

- All of the relevant issues have been covered in the technical reports.

### **7.4. Observations**

- None

## **8.0 Assessment**

### **8.1. Introduction**

- 8.1.1. I have examined the third party appeal, the application as originally submitted and the further information submitted and all other documentation on file. I have inspected the site and have had regard to relevant local/regional/national policies and appropriate guidance.

8.1.2. I am satisfied the substantive issues arising from the grounds of the third-party Appeals relate to the following matters-

- Principle of the Development
- Impacts upon Residential Amenity
- Other Matters
- Appropriate Assessment

## 8.2. Principle of the Development

8.2.1. The site is located within the designated settlement and 'Development Boundary' of Dripsey Model Village and is described as an 'Urban Area' as per the provisions of the online zoning map for the County Development Plan 2022-28 (CDP).

8.2.2. Volume 1, Appendix B of the Cork County Development sets out 'Core Strategy Tables' and identifies Dripsey Model Village as a 'Village' within the 'County Metropolitan Cork Strategic Planning Area' and designates 30 units to 'Compact Residential Zoning/ Infill / Brownfield'. This is supplemented in Volume 4 of the CDP section 4.21- Objective DB-01 which provides for up to 30 additional dwelling units during the plan period within the development boundary.

8.2.3. The permitted development application as amended at FI stage provides for 18 number residential dwellings within the 'Development Boundary'. The Applicants indicate in their RFI that this provides a density of 16 units per hectare based on a revised developable area of 1.1 ha. I am satisfied this is generally in accordance with section 6.12 of the SRDUA 2009 guidelines for 'Edge of small town / village' i.e. the proposal does not provide a density less than 15-20 dwellings per hectare.

8.2.4. Circular NRUP 02/2021 provides further clarity in relation to the interpretation and application of the SRDUA 2009 guidelines. This Circular states-

*'it is necessary to adapt the scale, design and layout of housing in towns and villages, to ensure that suburban or high density urban approaches are not applied uniformly and that development responds appropriately to the character, scale and setting of the town or village.'*

8.2.5. Having regard to the above, the character, scale and setting of existing development within Dripsey Model Village, I consider a density of 16 units per ha to be appropriate in this context. Overall, I am satisfied the proposal is acceptable in principle.

### 8.3. Impacts upon Residential Amenity

8.3.1. The Appellant's primary concern appears to relate to the impact the proposed development will have on the existing residential amenity of No. 8 O'Callaghan Place. In particular she highlights concerns over loss of daylight and impacts on privacy.

8.3.2. The Applicant argues the permitted layout provides separation distances in excess of 22m and a landscaped buffer which will protect the privacy and amenities of adjoining properties along O'Callaghan Place. They also detail that it is the Appellant's own retention application for their extension that shows the bay window. They also highlight how the Appellant's property has two skylights which serves the living room in addition to the bay window.

#### *Impacts on Daylight/Sunlight*

8.3.3. In considering these impacts it is appropriate to have regard to the principles of 'Site Layout Planning for Daylight and Sunlight, A guide to good practice (Building Research Establishment Report, 2022) i.e. BRE209. Section 1.6 of BRE 209 specifically details that the advice given is not mandatory and should not be seen as an instrument of planning policy.

8.3.4. In terms of loss of daylight I note the subject bay window is c. 2.3m from the existing rear boundary fence which is c. 1.2-1.5m high along the bay window. The bay window is rectangular in proportions with glazing in three directions. During my inspection I observed one south facing roof light.

8.3.5. I have reviewed planning application 16/5581 (see footnote 2 in section 5.0 above). I am satisfied this application appears to permit the retention of the extension and bay window 3.843m from the boundary with the application site and that the living room benefits from two roof lights and the large bay window. I have also reviewed planning application 21/5013 which I note was for retention of a garage but did show a different dimension of the bay window from the subject boundary i.e. 2.2m.

- 8.3.6. The 'Proposed Landscape Plan' Drawing No 18151/P004A submitted as part of the RFI details the 'Existing boundary (Trees Hedgerow) is to be retained and supplemented with additional planting and a 2m high weld mesh fence'.
- 8.3.7. The existing boundary between the Appellant's property and the application site does not benefit from a substantial existing trees and hedgerow as suggested in the Landscape Plan and by the Applicant. Drawing Number 18151/P/006D shows a cross section through the site including proposed house number 16 and the Appellant's property. It highlights the significant existing and proposed level differences between the site and No. 8 O'Callaghan Place. This shows a 2m high weld mesh fence inside the site boundary and c. 4m from the bay window.
- 8.3.8. Regardless of the planning status of the Appellant's extension and bay window at No. 8 O'Callaghan Place, I am satisfied the 2m boundary fence as proposed would not lead to a significant loss of diffuse daylight to the room served by the bay window as per the provisions of section 2.2.4 and Figure 20 of BRE209 i.e. -
- the distance of the proposed fence from the existing bay window (at least 2.3m) is three or more times its height above the centre of the bay window 1.5m (it is reasonable to use this figure as per BRE209)

Furthermore no part of the proposed development would obstruct the existing south or north facing windows on the bay window or the rooflights.

- 8.3.9. Appendix G of BRE 209 deals with 'Trees and Hedges' and the potential for daylight impacts on existing and proposed buildings. Having considered this, the extent and orientation of existing glazing to No. 8 O'Callaghan Place and noting the proposed level differences between this house with the site, it is not likely that the proposed landscaping would contribute to a significant loss of daylight that would warrant refusing the proposed development.
- 8.3.10. In terms of loss of sunlight to the interior of No 8 O'Callaghan Place I note section 3.2 of BRE209 provides guidance in relation to safeguarding access of sunlight to interiors of existing dwellings in the form of calculable 'Annual Probable Sunlight Hours' (APSH). Summary box 3.2.13 states-

*'If a living room of an existing dwelling has a main window facing within 90 degrees of due south and any part of a new development subtends an angle*

*of more than 25 degrees to the horizontal measured from the centre of the window in a vertical section perpendicular to the window, then the sunlighting of the existing dwelling may be adversely affected.'*

8.3.11. The west facing bay window of No. 8 O'Callaghan Place is oriented slightly north westwards and therefore no part is located within 90 degrees of due south. The south facing glazing of the bay window is not subtended by the proposed development or the proposed boundary fence. I am satisfied the proposed development will not significantly or adversely impact upon existing interior sunlight to No 8 O'Callaghan Place.

#### *Impacts on Privacy*

8.3.12. The Appellant highlights how the proposed bedrooms will be at a similar level to the ground floor of No. 8 O'Callaghan Place and that a proposal for single storey houses would instead help protect her privacy.

8.3.13. Proposed houses No's 15-18 are located a minimum of c. 19m from the rear site boundary and further still to the rear of houses along O'Callaghan Place. All other proposed houses are shown to have rear garden depths of at least 11m. I am satisfied the proposed separation distances adequately protect against loss of privacy.

8.3.14. The application proposes a significant level difference between the rear of properties on O'Callaghan Place and the private amenity spaces of the proposed houses. In this context, I have some concerns the proposed 2m weld mesh fence boundary treatment would allow direct overlooking of the proposed gardens from existing houses and their gardens i.e. through the fence from higher ground. It is unlikely that proposed landscaping would mitigate this concern until such time it is mature and established.

8.3.15. Should the Board decide to grant permission it is recommended a condition should be applied seeking a 2m high solid boundary treatment, details of which should be agreed with the Planning Authority prior to commencement of development. As discussed earlier a solid or mesh fence would not significantly impact access to daylight or sunlight to the interior of No 8 O'Callaghan Place.

8.3.16. Having considered all of the above I am satisfied the proposed development would not significantly detract from existing residential amenity.

#### 8.4. Other Matters

- a) The Appellant raises concerns over the developer defaulting on verbal agreements. I am satisfied this is a matter between the parties and is not one for the Board to be concerned with.
- b) The Appellant highlights concerns in relation to the accuracy of the drawings in term of separation distances between her house and the proposed houses. The Applicants argue the discrepancy is a result of unauthorised development by the Appellant. Having considered the planning history of the Appellant's property (see section 5.0) I am satisfied the drawings as presented are adequate for the purpose of this assessment and the discrepancy does not have a material impact on this assessment. Notwithstanding this I am satisfied that separation distance between the existing and proposed development is acceptable as set in section 8.3.
- c) Matters relating to Part V can be adequately addressed by condition and between the developer and the Planning Authority.
- d) The Appellant raises concerns in relation to the adequacy of existing roads and footpaths in the area and describes them as not suitable for existing traffic let alone additional traffic from the proposed development. The site is located within the existing development boundary of Dripsey Model Village. The application proposed access connecting from the existing access road into Dysart Woods. The existing path is to be extended with a 2m wide footpath into the site to serve the 18 houses. The proposed access road is shown as 5.5m wide. The proposed road and footpath are considered appropriate for the development. The Planning Authority have applied a Special Development Contribution in relation to works at the proposed entrance. This has not been appealed and therefore should the Board decide to grant permission it is appropriate to attach such a condition.
- e) The Appellant raise concerns over future development stages of the landholding. Concerns over future development of the landholding would be

considered in the context of the planning context at the time of such applications. There is no justification for the remainder of the landholding to be sterilised.

- f) The application proposes 18 units each with generous individual private amenity spaces extending from c. 14m to c. 23m in depth. House number 1 has a rear garden depth of 11.97m which is considered acceptable. None of the house plots are restricted in such a way to warrant a condition removing exempted development provisions.
- g) Concerns are raised that the proposed development, if permitted, would result in a depreciation of the Appellant's property value. Having regard to this assessment and conclusions reached thus far, I am satisfied that the proposed development would not seriously injure the amenities of the area to such an extent that would adversely affect the value of any property in the vicinity.

## **8.5. Appropriate Assessment**

- 8.5.1. Having regard to the nature of the appeal, the development to proposed, its location on existing zoned lands, and the separation distance to European sites, no Appropriate Assessment issues are considered to arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

## **9.0 Recommendation**

- 9.1. I recommend that permission is granted subject to the following conditions-

## **10.0 Reasons and Considerations**

- 10.1. Having regard to the sites location within the designated settlement boundary of Model Village Dripsey and the provisions of the Cork County Development Plan 2022-2028, to the provisions of the National Planning Framework 2018, the Regional Spatial & Economic Strategy for the Southern Region 2020, the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (Cities,

Towns & Villages) 2009 and the related Circular Letter: NRUP 02/2021, to the pattern of development in the area, and to the density, design, character, and layout of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development would constitute an acceptable quantum of development, housing mix and appropriate density for the area, would not adversely impact on the residential or visual amenities of adjoining properties in the area, would not generate a traffic hazard or endanger public safety and would not be prejudicial to public health. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 11.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application on the 22<sup>nd</sup> day of December, 2021 and, as amended by the further plans and particulars submitted on the 06<sup>th</sup> day of May, 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. The proposed development shall be amended as follows:
  - a. The 2m high weld mesh fence to site boundaries is not permitted and shall be replaced with a 2m high solid boundary.

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

Reason: In the interest of orderly development, residential amenity, clarity, sustainable development and proper planning.



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

Reason: In the interest of visual amenity.

4. (a) The internal road and vehicular circulation network serving the proposed development including turning bays, junctions, parking areas, footpaths and kerbs shall be in accordance with the detailed construction standards of the planning authority for such road works and design standards outlined in the Design Manual for Urban Roads and Streets (DMURS). Drawings and particulars showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. shall comply with all relevant aspects of DMURS.

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

5. (a) All of the parking areas serving the residential units shall be provided with functional electric vehicle charging points, and all of the in-curtilage car parking spaces serving residential units shall be provided with electric connections to the exterior of the houses to allow for the provision of 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.

(b) No car parking spaces shall be sold, rented or otherwise sub-let or leased.

Reason: in the interest of sustainable transportation.

6. Proposals for naming and numbering of the proposed scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all estate and street signs and house numbers, shall be provided in accordance with the

agreed scheme. The proposed name(s) shall be based on local historical or topographical features, or other alternatives acceptable to the planning authority. No advertisements/marketing signage relating to the name(s) of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name(s).

Reason: In the interest of legibility.

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

Reason: In the interest of public health.

8. Prior to commencement of development the developer shall enter into water and/or waste water connection agreement(s) with Irish Water.

Reason: In the interest of public health.

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

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

10. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. The developer shall provide ducting to facilitate the provision of broadband infrastructure within the proposed development.

Reason: In the interests of visual and residential amenity.

11. Public lighting shall be provided in accordance with a scheme, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The agreed lighting system shall be fully implemented and operational before any of the residential or commercial units are made available for occupation.

Reason: In the interests of amenity and public safety.

12. The landscaping scheme shown on Drawing No. 18151/P/004A, as submitted to the planning authority on the 06<sup>th</sup> day of May, 2022 shall be carried out within the first planting season following substantial completion of external construction works. 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 or until the development is taken in charge by the local authority, whichever is the sooner, 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.

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

Reason: In the interest of amenities, public health and safety.

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

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

15. The management and maintenance of the proposed development following its completion shall be the responsibility of a legally constituted management company, or by the local authority in the event of the development being taken in charge. Detailed proposals in this regard shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development.

Reason: To ensure the satisfactory completion and maintenance of this development.

16. Prior to the commencement of any house 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 unit), pursuant to Section 47 of the Planning and Development Act, 2000, that restricts all houses permitted, 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.

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.

17. 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.

18. 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

19. 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.

20. The developer shall pay to the planning authority a financial contribution as a special contribution under section 48(2) (c) of the Planning and Development Act 2000. The amount of the contribution shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála for determination. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be updated at the time of payment in accordance with changes in the Wholesale Price Index – Building and Construction (Capital Goods), published by the Central Statistics Office.

Reason: It is considered reasonable that the developer should contribute towards the specific exceptional costs which are incurred by the planning authority which are not covered in the Development Contribution Scheme and which will benefit the proposed development.

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I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

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Adrian Ormsby  
Planning Inspector

07<sup>th</sup> of July 2023