



An
Bord
Pleanála

Inspector's Report

ABP-315010-22

Development	Residential, retail, offices, pharmacy and café development with all associated works.
Location	Main Street, Carrigtwohill, Co. Cork.
Planning Authority	Cork County Council.
Planning Authority Reg. Ref.	224440.
Applicant(s)	Ardarostig Developments Limited.
Type of Application	Permission.
Planning Authority Decision	Grant Permission.
Type of Appeal	First Party versus condition. Third Party versus decision.
Appellant(s)	Ardarostig Developments Limited. Alan Maher.
Observer(s)	None.
Date of Site Inspection	22 February 2024.
Inspector	Stephen Rhys Thomas.

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1.0 Site Location and Description

- 1.1. The appeal site lies to the rear of Carrigtwohill Main Street, some 15km east of Cork City and 8km west of Midleton. Carrigtwohill train station was updated and has been in modern suburban operation since 2009 and forms part of planned expansions to the service along the Cork-Midleton rail line. The train station is located to the north of Main Street, and is accessed from the town via Station Road. The N25 Cork-Rosslare road by-passes the town to the south with a slip road access to the east and west of the town centre. The town of Carrigtwohill has been subject to significant new housing development in recent years with further growth and construction currently underway to the north of the Main Street.
- 1.2. The appeal site is located south of the Main Street, at the centre of Carrigtwohill. It is a large backland site to the rear of property that fronts the Main Street. To the south of the site is located a large area of amenity lands, that comprise a full size all weather playing pitch, woodland walking routes and a children's playground. To the west of the site is a large commercial transport compound with storage buildings and large areas of hard standing. A community centre and large expanse of car parking is located to the east of the site. The eastern southern and western boundaries of the site comprise hedgerows and some banked stone walls. Most of the site comprises a large level field currently in grass, but overgrown. The remainder of the site comprises sheds and storage buildings of little merit, together with a large extent of the public road included within the red line boundary.
- 1.3. The character of the area is typical of the centre of a medium sized town, with single, two and three storey buildings aligning the Main Street to the back of the footpath. The site is accessed from Well Lane that runs south of the Main Street and another entrance allows access at a break between buildings along Main Street opposite a secondary school.

2.0 Proposed Development

- 2.1. The proposed development comprises a residential, retail, offices, pharmacy and café development, the detail is as follows:
 - Demolition of the existing buildings and structures on site

- Construction of 5 buildings ranging in height from single storey to three storeys.
- A total of 43 residential units (14 one bed units and 29 two bed units).
- Block 1 will accommodate an anchor retail supermarket which will include the sale of alcohol for consumption off the premises, with a gross floor area of 2,958sq.m (net retail area of 1,817sq.m) at ground floor level and 32 residential units (8 one bed units and 24 2 bed units) at first and second floor levels.
- Block 2 will accommodate a retail unit with gross floor area of 369sq.m (net retail area of 319sq.m) at ground floor level and offices (360sq.m) at first floor level.
- Block 3 provides for a café with a gross floor area of 148sq.m (net area of 128sq.m) and pharmacy with a gross floor area of 148sq.m (net retail area of 128sq.m) at ground level and 2 two bed residential units at first floor level.
- Block 4 includes 9 residential units (6 one bed units and 3 two bed units) over three floor levels.
- Block 5 will accommodate a retail-unit with a gross floor area of 166sq.m (net retail area of 133sq.m) at ground floor level.
- Upgrade of the existing vehicular access from Main Street to provide for a new signalised junction; provision of a pedestrian/cycle connection to Main Street; car parking; cycle parking; trolley bays; bin storage; lighting; signage; ESB substations; plant; hard and soft landscaping and new boundary treatments.
- All on a site of 1.6 Hectares.

2.2. Further information was sought and the following minor changes apply:

- Revised screening treatment to roof top plant block 1.
- Two new pedestrian/vehicular access points to the community centre car park to the east.
- Minor amendments to Block 1 residential element.

- Revised public realm and landscaping proposals.

Clarification of further information was sought, minor amendments include:

- Relocation of the ground floor residential entrance at block 1 to the south eastern corner. Canopy changes. Bin storage and sound proofing changes. Minor façade and balcony changes.

Permission was granted for the initial development as proposed subject to the minor amendments outlined above and by condition.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. The planning authority granted permission, subject to 50 conditions, most conditions are of a standard or technical nature, conditions of note include:

Condition 4 – changes to entrance boundary details and pedestrian separation.

Condition 6 – interim junction solution amendments.

Condition 37 and 38 – new link road south of Main Street, connection and reinstatement requirements.

condition 40 – access to community centre car park and boundary details.

Condition 46 – special contribution for the Cobh Cross Interim Upgrade project and other works.

Condition 47 – standard section 48 development contribution scheme.

Condition 48 – section 49 contribution regarding Cobh/Midleton – Blarney Suburban Rail Project.

3.2. Planning Authority Reports

- 3.2.1. Planning Reports

Planning Report 1

- Permitted developed the vicinity is noted, specifically, 19/5707 school campus. Other planning history includes, deemed withdrawn proposals, and

permitted mixed development permitted in 2015 and earlier. Permitted Part 8 for extensive public road improvement.

- EIAR/AA/FRA not required.
- Principle of development on town centre zoning acceptable.
- Demolition of structures on site acceptable.
- Layout – all blocks acceptable, development will extend Carrigwohill town centre in a logical way.
- Residential amenity for future residents meets standards required.
- Car Parking is below development plan standards (136 proposed, 271 required), other developments in the vicinity have been permitted and the proposed development does not align with a permitted Part 8 in terms of access arrangements.

Noted and endorsed by the Senior Planner. Further information in accordance with the Planner's recommendation was sought.

Planning Report 2

- Car parking quantum is still below that required and pedestrian connections are not proposed.
- Block 1 requires further refinement.
- Concerns remain with regard to the proposed signalised junction.

Noted and endorsed by the Senior Planner. Clarification of further information in accordance with the Planner's recommendation was sought.

Planning Report 3

- Elevational changes to block 1 acceptable.
- Subject to a car parking strategy, car parking proposals are acceptable.
- An interim junction solution could be found, at the expense of the developer.

Noted and endorsed by the Senior Planner. Grant permission in accordance with the Planner's recommendation.

3.2.2. Other Technical Reports

Housing Infrastructure Implementation Team – further information required.

Estates Report – no objections.

Area Engineer – no objections

Environment Report - further information required.

Housing Officer/Part V – no objections.

Water Services - no objections

Public Lighting Report - further information required.

Technical Reports in response to further information received:

Traffic and Transport - clarification required

HIIT - clarification required

Public Lighting Report – no objections.

3.3. **Prescribed Bodies**

Inland Fisheries Ireland – ensure sufficient capacity in the public network with regard to effluent disposal.

Uisce Éireann – no objections.

3.4. **Third Party Observations**

- 3.4.1. Three submissions, issues include: third party consent not provided, traffic, antisocial behaviour will result from off-licence use, bike and bin storage areas criticised, boundary treatment not acceptable, block 2 will overlook and overshadow, property devaluation, incompatible with Part 8, preservation of older buildings, permeability and pedestrian access, and possibility of bird collisions.

4.0 **Planning History**

4.1. **Site**

4.1.1. PA ref **15/663** – permission to extend duration regarding PA ref 10/5712 and ABP 237635 for an anchor retail unit (4500 sqm gross), 10 retail units (1415 sqm), coffee shop (234 sqm), 3 office units (770 sqm), 21 apartments and 392 semi-basement car parking spaces.

4.1.2. PA ref **10/5712** and ABP 237635 for an anchor retail unit (4500 sqm gross), 10 retail units (1415 sqm), coffee shop (234 sqm), 3 office units (770 sqm), 21 apartments and 392 semi-basement car parking spaces.

Note condition 31 with reference to section 48(2) (c) respect of (i) road improvement works required to be undertaken at and adjacent to the Main Street/ Station Road junction to facilitate the proposed development and (ii) in lieu of the provision of on-site recreation and amenity facilities.

4.1.3. PA ref **08/8588** and ABP PL 04.233347; Mixed use development including 1 retail store, 10 retail units, café, 3 offices, 21 apartments, and 396 car parking spaces. Third party appeal against planning authority decision to refuse planning permission. Refused on grounds of deficiencies in road network and traffic congestion.

5.0 Policy Context

5.1. Development Plan

5.1.1. Cork County Development Plan 2022

The site is located on lands subject to zoning objectives Town Centre/Neighbourhood Centre, and forms part of a designated Regeneration Area, CT-RA-01 refers.

5.1.2. Volume 4 South Cork states:

Within Carrigtwohill town centre area there are a number of sites that would benefit from regeneration to accommodate uses more appropriate to the town centre and to enhance the streetscape and its functionality. Any proposals for regeneration of these sites should align with broader proposals under the URDF Public Realm Initiative for the Town.

CT-RA-01 - South of the Main Street, Located in CT-T-01, Adjoining O'Donovan's Transport Depot to the East.

Large opportunity site located South of the Main Street with very good pedestrian linkage to Main Street.

The northwestern corner of the site is earmarked for a public amenity area at the junction of Station Road and Main Street, therefore vehicular access will need to be provided from the west (CT-U-15a).

The site is suitable for a mixed use development, possibly including a larger anchor retail unit and a range of smaller retail units, cafes, restaurants, and office space. The development will accommodate some above ground floor residential use. This development would encourage a high level of footfall and enhance turnover of existing smaller retail units along the Main Street.

The development of this site CT-RA-01 together with CT-RA-02 to the west would benefit from the development of a composite Masterplan to guide the appropriate development of this area in terms of a range of suitable uses, layout, and connectivity with an emphasis on high quality public realm. Public carparking considerations should form part of the overall proposals to provide the opportunity for a degree of relocated parking off Main Street.

5.1.3. Relevant chapters of the county development plan include:

Chapter 3 Settlements and Placemaking

Chapter 4 Housing

Chapter 9 Town Centres and Retail

Chapter 12 Transport and Mobility

Carrigtwohill is defined as a Smaller Metropolitan Town

Table 4.1: Settlement Density Location Guide – plans for High (50 units/ha+) density

Retail Network/Hierarchy and Objective CR 9-9: Strengthen and consolidate the retail role and function of the smaller metropolitan towns and to provide retail development in accordance with their planned population growth to serve their local catchments.

Table D2: Settlement Specific Key Infrastructure

New Carrigtwohill Traffic & Transport Traffic Study Required and to include N25 upgrade or north and south connections to possible future Ballyadam interchange.

Cobh Road Junction Interim measures upgrade.

5.2. Contribution Scheme

Cork County Council Development Contribution Scheme 2004, updated rates effective from 1st January 2014:

Residential CASP Area - €24.49

Roads – 17.69 Amenity 6.80 Total = 24.49

Office and Retail - €48.97 per sq.m.

Breakdown of Development Contribution Scheme (€ per sq.m.):

Roads – 42.86 Amenity 6.11 Total = 48.97

5.3. Development Management Guidelines for Planning Authorities, Department of the Environment, Heritage and Local Government 2007.

- 5.3.1. 'Special' contribution requirements in respect of a particular development may be imposed under section 48(2)(c) of the Planning Act where specific exceptional costs not covered by a scheme are incurred by a local authority in the provision of public infrastructure and facilities which benefit the proposed development. A condition requiring a special contribution must be amenable to implementation under the terms of section 48(12) of the Planning Act; therefore it is essential that the basis for the calculation of the contribution should be explained in the planning decision. This means that it will be necessary to identify the nature/scope of works, the expenditure involved and the basis for the calculation, including how it is apportioned to the particular development. Circumstances which might warrant the attachment of a special contribution condition would include where the costs are incurred directly as a result of, or in order to facilitate, the development in question and are properly attributable to it. Where the benefit deriving from the particular infrastructure or facility is more widespread (e.g. extends to other lands in the vicinity) consideration should be given to adopting a revised development contribution scheme or, as provided for in the Planning Act, adopting a separate development contribution scheme for the relevant geographical area. Conditions requiring the payment of special contributions may be the subject of appeal.
- 5.3.2. Appendix 1 – Special Development Contributions. : The Appendix does not form part of the Scheme(s) and is for reference purposes only.

5.4. **Development Contributions Guidelines for Planning Authorities**, Department of the Environment, Community and Local Government 2013.

5.4.1. These guidelines provide advice on the preparation of General Development Contribution Schemes.

5.4.2. A key message of the guidelines is stated: - While it is expected that planning authorities will ensure that developers make an appropriate contribution towards the costs of public infrastructure and facilities, the local authority must ensure that it avoids levying development contributions that are excessively high – development contributions are ultimately designed to offset only a portion of the costs of public infrastructure and facilities.

5.5. **Natural Heritage Designations**

5.5.1. The site is not located within any designated site. The closest Natura 2000 site is the Great Island Channel SAC (Site Code: 001058) which is located approximately a kilometre to the south-west of the site. The Cork Harbour SPA (Site Code: 004030) lies approximately 1.1km to the south-west of the site.

5.6. **EIA Screening**

5.6.1. The scale of the proposed development is well under the thresholds set out by the Planning and Development Regulations 2000 (as amended) in Schedule 5, Part 2(10) dealing with urban developments (500 dwelling units; 400 space carpark; 2 hectares extent), and I do not consider that any characteristics or locational aspects (Schedule 7) apply. I conclude that the need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required, see Appendix 1.

6.0 **The Appeal**

6.1. **Grounds of Appeal**

6.1.1. This is a first party appeal against a financial contribution condition and a third party appeal against the decision.

First Party Appeal

6.1.2. The applicant has lodged a first party appeal against condition 46 (special contribution) and it is requested that the Board assess the appeal under the provisions of section 48(13) and section 139 of the Planning and Development Act 2000 as amended, no other issues are raised, the grounds of appeal can be summarised as follows:

- Condition 46 relates to the delivery of the Carrigwohill Urban Regeneration and Development Fund (CURDF) Part 8 public realm infrastructure project, the application of a section 48(2)(c) condition is unjustified and not in accordance with the 2000 Act or Development Contributions Guidelines for Planning Authorities 2013.
- Development Plan objective CT-GO-06, refers to CURDF and has wider town centre implications and benefits.
- The 2013 Guidelines are still in place and advises against double charging. The County Council's Development Contributions Scheme 2004 (GDSCS) states that general development contributions include roads and traffic management measures.
- The CURDF upgrades are neither exceptional or specific to the delivery to the development in question. The types of measures included in the CURDF are covered in the general scheme. The HIIT department provide a breakdown of costs for Cobh Cross interim upgrade (€165,000), new east west link road (€197,917), Main Street and Station Road (€373,011), and shortfall in car parking spaces (€27,500). No reference was made to the general scheme in any assessment.
- The future Cobh Cross Interim Upgrades are 1.6km from the site and have no relationship with the future development of the site.
- The delivery of CT-U-18 link road is an objective of the development plan, the proposed development facilitates the delivery of the link road but does not depend on it.

- The proposed development will deliver off site works and junction upgrades, to apply the CURDF upgrades at Main Street and Station Road is neither exceptional or specific to the proposed development.
- To levy because of a shortfall in car parking is against development plan parking standards and sustainable travel objectives.
- Central government will provide 75% funding for the CURDF upgrades under the Urban Regeneration and Development Fund (URDF), the Council have not detailed how they will match the other 25%.
- In accordance with the 2000 Act, the planning authority have not provided a basis for the calculation of the special contributions, the nature and scope of works has not been provided.
- The special contribution levied is not reasonable or proportionate and conflicts with the advice provided by the Development Contributions Guidelines for Planning Authorities 2013.

6.1.3. The grounds of appeal are accompanied by the HIIT report, CURDF drawing pack and notes on URDF.

Third Party Appeal

6.1.4. A third party, has lodged an appeal against the decision of the planning authority to grant permission, the grounds of appeal can be summarised as follows:

- Ownership - As registered owner of property and a right of way that forms part of the planning application (Folio CK1467084F), no permission was sought or given to make the planning application.
- Assessment – given that further information and clarification of information was sought, criticism is levelled at the planning authority by not engaging further with the appellant. Conditions 7 and 8 burden the appellant with no control over management of the car parking and other areas. In addition, conditions 12, 13, 14, 15, 16, 17 and 19 all impact upon the business.
- Disruption – the development will disrupt the appellant’s business at all stages.

- Property Value – the development will diminish the appellant’s property value, the property will be adversely impacted upon by all aspects of the development and any compensation is excluded.
- Orderly Development – the development as permitted fails to address the receiving environment and will not contribute in a positive way to the area. The development fails to address the business property and how it operates, deliveries and patrons etc.

6.1.5. The grounds of appeal are accompanied by a yard photograph, folio map for CK167084F with manually drawn pink highlighting and the original submission to the planning application.

6.2. Applicant Response

6.2.1. The applicant has responded to the grounds of appeal submitted by the third party and can be summarised as follows:

- Right of Way – The appellant folio CK167084F and CK180928F do not have any established rights of way within the red line boundary. The applicant has complete legal entitlements to make a planning application and carry out works within the site boundary.
- Impact to Neighbouring Property – the applicant reiterates the design rationale and process of assessment through all stages of the application and references the strategic importance of CT-RA-01 regeneration area.

The response is accompanied by a legal opinion in relation to title, right of way and recent storage development. A letter from the ‘divided’ owners of folio CK167084F that disagrees with the statements made in relation to rights of way made by the third party appellant. The letter goes on to state that permission has not been given to store materials on this land. A map details the proposed development, planning application area outlined in orange, third party appellant site outlined in red and a hatched area within the application site.

6.3. Planning Authority Response

6.3.1. Response dated 24 November 2022 - All relevant details have been covered by those reports already submitted to the Board, with reference to the third party appeal.

6.3.2. Response dated 7 December 2022 – summarised as follows:

Director of Services – the special contribution has been reduced after further assessment, the applicant was aware of infrastructure implications, the public realm and active travel solutions would support the development and enable delivery of same.

Senior Executive Planner – outlines the Urban Expansion Area (UEA) of Carrigtwohill and explains in detail what is envisaged for a town set to grow, specifically:

- The improvements planned for will benefit the development in question.
- Volume 4, page 110 of the development plan details the importance of contributions and the UEA, the special contributions are identified under paragraph 2.4.70. Objectives U-17 and U-18 identify areas on the zoning map, new link road and regeneration areas. Other paragraphs of the plan pinpoint areas due for renewal and public realm improvement.
- Zoning Objective T-01 highlights need for improved connectivity and public realm improvements. The link road will provide access to the site and open other landlocked sites. Benefits will accrue to the site and other sites along its length. Given that the proposed junction improvements proposed by the applicant are not compatible with the Council's Part 8, the link road will become the main access for the site.

HIIT report – The site will benefit from the CURDF Part 8 bundle, a recalculation of the special contribution assessment has taken place as follows:

Cobh Cross Interim Measure - €157,000

New Link Access Road - €197,197

Main Street and Station Road upgrades - €153,751

Public Car Parking - €27,500

Overall amount has been adjusted to €536,168

The calculations above are supported by drawings and rationale to show how the development proposal will benefit from the planned improvements.

- The Cobh Cross Interim Measure will improve traffic flow generally, and increased traffic generated by development will be accommodated. A cost estimate for the Cobh Cross Interim Measure is given at €4.8 million plus land costs. Because the Cobh Cross Interim Measure, is temporary in nature it is not included in the General Development Contribution Scheme and is also not funded under URDF. A rate of €22.08 per sqm has been arrived at based upon the expected growth of Carrigtwohill in terms of residential and commercial.
- CT-U-17/CT-U-18 New link access road – Part 8 was approved for this road, June 2022. The developer must agree the design of the junction with the Council and this will be a temporary measure. The new link access road is costed at €1,285,728 in 2021 and after inflation will now cost €1,395,015 in addition to land acquisition. The car parking along the link road will benefit the development in question, a reduction of 10% has been applied. All development within a 4.8 Hectare area of the town centre will fund this project. Given that 1.6 Hectares (appeal site area) is 33% of 4.8 Hectare, the amount of €791,671 was arrived at. The development is fully dependant on this new link road. Some allowance has been given to URDF amounts.
- Main Street and Station Road Upgrade – A map shows the extent of the upgrades across the centre of Carrigtwohill. Delivery is set at a total cost of €13,539,312. A map outlines in light blue the area of Carrigtwohill that would benefit from the Part 8 scheme, a table shows the apportionment of cost. Because the applicant is providing some public realm, a discount has been applied and the levy reduced, but the cost of the interim junction solution is a commercial decision at a cost borne by the developer.
- Car Parking Spaces – A shortfall of 10.8 spaces means that these must be provided at a cost of €27,500.

The response is accompanied by estimated costings, and plans showing land acquisition requirements.

6.4. Observations

6.4.1. None.

6.5. Further Responses

6.5.1. The applicant has responded to the detailed submission made by the planning authority with respect to contributions. Whilst the applicant welcomes a reduction in the amount of contribution sought, they still disagree that a special contribution should be applied at all and reiterate their grounds of appeal.

7.0 Assessment

7.1. Introduction

- 7.1.1. The applicant has not appealed the decision of the planning authority, instead they wish to appeal a condition requiring the payment of a contribution attached to the notification to grant permission. In this regard the applicant is clear that their appeal is made in the context of section 48(13) and section 139 of the Planning and Development Act 2000 as amended, the appeal refers condition 46 no other issues are raised. There is also a third party appeal against the decision of the planning authority to grant permission. Hence, the main issues in this appeal are those raised in the grounds of appeal, and I am satisfied that no other substantive issues arise. I deal with the third party appeal first and the applicant's appeal against conditions second, the issues can be dealt with under the following headings:

Third Party Appeal

- Ownership
- Business Disruption
- Conditions Attached
- Other Matters

First Party Appeal

- Condition

Third Party Appeal

7.2. Ownership

- 7.2.1. The appellant is concerned that their property rights have been impinged upon and that a portion of the site has been included in the planning application for which consent was not given. The appellant states that they are the registered owner of property and a right of way that forms part of the planning application (Folio CK1467084F). The appellant explains that the operation of his business will be impacted upon, due to a loss of storage area, smoking area and access. Photographs accompany the grounds of appeal and I can confirm that on the day of

my site visit I observed commercial bins and a large number of kegs stacked three high along Well Lane.

7.2.2. The applicant has responded to the appellants claims and states that the third party appellant folio CK167084F and CK180928F do not have any established rights of way within the red line boundary. The applicant demonstrates that they have complete legal entitlements to make a planning application and carry out works within the site boundary. The applicant's response is accompanied by a legal opinion in relation to title, right of way and the appearance of relatively recent storage development along the laneway. A letter from the 'divided' owners of folio CK167084F sets out how they each disagree with the statements made in relation to rights of way made by the third party appellant. The letter goes on to state that permission has not been given to store materials on this land. A map details the proposed development, planning application area outlined in orange, third party appellant site outlined in red and a hatched area within the application site. The applicant points out that no development will take place that will alter access to the appellant's site.

7.2.3. Issues to do with legal title to land and rights of way or easements, stand outside the planning process and are not matters that can be solved with any element contained within the Planning and Development Act 2000 as amended. The planning system is not designed as a mechanism for resolving disputes about title to land or premises or rights over land; these are ultimately matters for resolution in the Courts. In this regard, it should be noted that, as section 34(13) of the Planning Act states, a person is not be entitled solely by reason of a permission to carry out any development. Commonly, a grant of permission is subject to the provisions of section 34(13) of the Act, referred to above. In other words, the developer must be certain under civil law that he/she has all rights in the land to execute the grant of permission. I have seen enough information on the file to demonstrate that the applicant has the relevant rights to lodge an application and carry out development, it is not for me or the Board to forensically investigate issues that are better examined in another forum if that is necessary. As such there are no grounds for the Board to refuse permission in this instance.

7.3. **Business Disruption**

- 7.3.1. The appellant believes that their business will be disrupted because of the development as permitted. The disruption will take the form of constraining access to the rear of their property and affect operational as well as patron enjoyment of the premises. The appellant has concerns about the construction phase of the development and how public safety could be affected in an adverse way. All of these concerns are amplified by the appellant's disappointment at not being part of the initial planning process and conditions attached to the permission make matters worse.
- 7.3.2. The proposed development will take place on lands that lie to the rear of the appellant's premises. At present Well Lane provides a narrow and unimproved access to the appeal site and amenity lands to the south as well as the appellant's property. I observed a quantity of beer kegs and commercial bins located along the lane outside the rear access to the appellant's premises. The laneway is narrow along its length, and this will all change when the development is complete. Well Lane will not resemble its current form but will instead provide the only vehicular access to the appeal site and possibly the lands beyond, via a reconfigured signalised junction with Main Street. In time, access to the balance of backland lands to the west of the site will be from the 'New link access road' granted planning approval under the Part 8 process in 2022.
- 7.3.3. From the drawings submitted at the initial stage and after a request for further information, I can see that improvements will be made to the width and alignment of Well Lane. The new lane will increase to 6 metres in width with a wide footpath of nearly 3.2 metres passing by the boundary to the appellant's property, together with an open plaza type arrangement adjacent to Block 5. All of these adjustments to the public realm are designed in accordance with DMURS principles and will drastically improve the area for the pedestrian and vehicle alike. When the development is complete, I anticipate that such improvements to the public realm will bring uplift to the area as a whole and should be welcomed. I anticipate no diminution to the appellant's trading position as a result of the development as proposed and amended, quite the reverse, it is generally accepted that improvements to the public realm bring positive benefits to adjacent business and communities alike.
- 7.3.4. With reference to the construction phase of the development, I note that drawings were submitted as further information on the matter, drawing numbers MHL-CRG-

CTR-P01, MHL-CRG-TMP-P01 (sheet 1 and 2). These drawings relate to a suggested construction haulage route and a traffic management proposal, the drawings are reproduced on A3 paper which is not ideal. I acknowledge that the construction phase of any development in a town centre location can be disruptive for adjacent property owners, and this is more than likely be the case here. However, I am satisfied that well a thought through traffic and construction management plan can deal with the development of this site. The appellant is critical of the planning authority and the lack of his involvement in this process of arriving at a traffic and construction management plan. In reality, this is not unusual and detailed traffic management scenarios are invariably determined between the developer and the planning authority before construction begins. This does not eliminate the appellant or other interested parties from the process and any complaints about deviation from a construction traffic management plan or any other conditions that refer to the construction phase of development can be lodged with the planning authority should they occur.

7.3.5. Development of this site has been anticipated for some time and this is underscored in the development plan as a regeneration site and highlighted by the planning history of these lands. The form of development will logically take access from an improved Well Lane and eventually from a new link access road in the future and this is demonstrated by improvement plans for the wider area. I am satisfied that the development as proposed will not impact on the appellant's business premises and how it operates now and I anticipate that improvements planned for the area will be a positive force for change and in line with the sustainable development of the town centre. The construction phase will be difficult, but it will be short term in nature and can be effectively controlled by a robust traffic and construction management plan, a suitably worded condition can address this matter.

7.4. **Conditions attached**

7.4.1. The appellant is concerned that their business operations will be curtailed due to the development as permitted. Linked with their claim to property ownership on the site, the applicant is concerned that conditions 7 and 8 that reference management companies are unfair to him, his staff and patrons. The appellant is frustrated that further information and clarification of information was sought, and matters agreed without his involvement. It is concluded that conditions 7 and 8 burden the appellant

with no control over management of the car parking and other areas. The appellant also argues that conditions 12, 13, 14, 15, 16, 17 and 19 will impact upon the business, patrons and staff.

7.4.2. In the first instance, conditions 7 and 8 relate to the car park and its management and the overall management company for the development in general. This is fairly standard practice and ensures that areas that are accessible to the public and residents are adequately maintained and looked after. I do not see how this could impact upon the operations of the appellant's business. I have already explained the primary issue at stake regarding property ownership and how this matter falls outside the planning process. Likewise, conditions 12, 13, 14, 15, 16, 17 and 19 that refer to a Construction and Demolition Resource Waste Plan, site management, surface water management during construction and general construction activities, all are standard in approach and seek to protect the environment and the amenities of adjacent propriety. I see no reason to assess this matter any further, as I do not anticipate that the attachment of such conditions would adversely impact the appellant in any meaningful way.

7.5. **Other Matters**

7.5.1. Property Values – The appellant is concerned that if the development is permitted it will decrease the value of their property and others in the area. The appellant references a legal case *Maher v ABP*, but has not submitted either the judgement or relevant extract that links property value and planning permission. No documentary evidence has been submitted to demonstrate that the development will adversely affect property values in the area, and it is likely that the provision of additional and enhanced shopping facilities will improve desirability for the area as a whole. It may be the perception of appellant that their amenities will be affected and hence the value of their property will decrease. I am satisfied that amenities will not be impacted upon to any great degree and this is demonstrated by the thorough assessment of same by the planning authority. I am not satisfied that a demonstrable case has been advanced to be certain that property values will be adversely affected by the development as proposed and controlled by condition.

7.5.2. Procedural – the appellant is concerned that they did not have full involvement in the planning process and were not invited to respond to information submitted by the

applicant. I note these concerns, however, the applicant is now fully engaged with the process and has lodged a valid appeal, to which I have had full regard.

- 7.5.3. Principle of Development - The site is located on lands that are subject to the Town Centre/Neighbourhood Centres zoning objective in the current development plan, the aim of the objective is to promote the development of town centres and neighbourhood centres as the primary locations for retail and other uses that provide goods or services principally to visiting members of the public. The lands are also designated as a regeneration area CT-RA-01 refers, and all of the components of this application are sought by that objective.
- 7.5.4. It is broadly accepted by all parties that the development that is proposed would be an acceptable use at this location. The appellant is mostly against the changes that will occur in the vicinity of their property access and arguments arise about land ownership and rights of way. The planning authority granted permission in line with the further information and clarification of further information submitted by the applicant, condition 6 of the grant of permission allows for adjacent private access. The design, layout and scale of development is not challenged by any party and the planning authority and applicant have devoted some amount of time and effort to ensure a suitably designed development that positively adds to Carrigtwohill and preserves and protects the amenities of neighbouring property. I am satisfied that all of this is achieved by the development as proposed and amended, and I have no reason to open up an examination of the overall suitability of the development at this location.

First Party Appeal

7.6. Condition

- 7.6.1. The applicant has appealed a special development contribution condition of €763,428.00 applied in condition 46 of the planning authority's notification to grant permission. The applicant has requested that the Board determine the appeal with reference to the financial condition alone and that the decision of the planning authority to grant permission does not form part of the appeal. The applicant explains that the appeal is made under section 48 and section 139 of the Planning and Development Act 2000 as amended, the appeal refers to condition 48 and no other issues are raised. In this instance the Board is precluded from assessing the

condition alone, because a third party has lodged a valid appeal against the decision of the planning authority.

- 7.6.2. Condition 46 refers to the provision of a special development contribution under section 48(2)(c) of the PDA, where specific exceptional costs not covered by the general scheme are incurred by any local authority in respect of public infrastructure and facilities which benefit the proposed development. Conditions 47 and 48 refer to the general development contribution scheme and section 49 scheme, they are not at issue.
- 7.6.3. The appellant understands that the special development contribution refers to the delivery of the Carrigtwohill Urban Regeneration and Development Fund (CURDF) Part 8 public realm infrastructure project. The applicant argues that the CURDF is not exceptional or specific to their development and will benefit the wider area in general. The applicant explains that the CURDF is articulated by objective CT-GO-06 in the development plan and targets the town centre as a whole, not just the appeal site. In addition, the applicant argues that the general scheme (2004) is in place to support the objectives of the plan with respect to sanitary services, roads and traffic management, community and recreational amenity. Effectively, condition 46 acts as a double charge on development and this goes against the 2013 Development Contributions guidelines that advise against doing so.
- 7.6.4. The applicant notes the report of the council's Housing Infrastructure Implementation Team (HIIT), the projects highlighted and costs set out, but no mention is made of the general scheme or the affect of double charging. In summary the applicant argues the following:
- the Cobh Cross Interim Upgrade (€165,000) is 1.6km west of the site,
 - delivery of the CT-U-18 link road (€197,917) is a development plan objective and the subject site is not dependant on its delivery,
 - upgrades to Main Street as part of the CURDF (€373,011) will not facilitate this development and in any case upgrades to the junction of Main Street will be carried out by the developer,

- and a car parking levy for a shortfall in car parking (€27,500) is inconsistent with table parking standards set in table 12.6 of the CDP and against the objectives of the plan to support sustainable transport.

7.6.5. Lastly, the applicant is critical of the CURDF funding mechanism whereby 75% is to be sourced from central government and the remainder to be raised locally and this money should be found in the general development contribution scheme. The applicant points to the general contribution scheme and argues that increases to rates should have been considered and were not. The applicant is also critical of the method by which each amount has been reached, citing a lack of basis for the calculations that results in a condition that is not rooted in reasonableness or proportionality.

7.6.6. In the first instance the Housing Infrastructure Implementation Team (HIIT) of the council prepared a detailed report, it appends the applicant's grounds of appeal and is contained in the file before the Board. The HIIT report sets out the URDF and the areas for which contributions are required: access, connectivity and car parking. The HIIT report details how the proposed vehicular access from Well Lane will be removed once CT-U-18 (new link road) is delivered, and allow for the progression of public realm improvements to the Main Street. The phasing of car parking and rationale for displacement spaces is set out and so too is the need for pedestrian connectivity. Amounts of contributions required for all of the things set out in the URDF are listed, but how these amounts are reached is not clearly explained, the applicant has noted this too.

7.6.7. The planning authority have provided a detailed response to the appeal and included a report from the Senior Executive Planner as well as the HIIT. The planning authority explain the background and need for the URDF in the context of the Urban Expansion Area (UAE) and this is noted. Volume 4, page 110 of the development plan is referenced and objectives are set out in Tables 4.2.6, and 4.2.7 Carrigtwohill North Urban Expansion Area. It is explained that none of the objectives sought for Carrigtwohill that concern the URDF will be realised if not funded and that the proposed development was only permitted on the basis that temporary measures proposed would be reversed when key infrastructure and public realm works are delivered.

- 7.6.8. In summary the HIIT response corrects the amounts of contributions required for each piece of infrastructure identified. The bottom line figure arrived at by HIIT now amounts to €536,168. The applicant notes the revised figures but does not accept that a special contribution is required in this instance and requests its omission in its entirety.
- 7.6.9. Carrigwohill Urban Regeneration and Development Fund (URDF) - The planning authority have significant plans for Carrigwohill to improve transport and the public realm. The planning authority reference the now approved Part 8 for the Carrigwohill Urban Regeneration and Development Fund (URDF) Initiative – Public Realm Infrastructure Bundle, and have included drawings and costings within the appendices of their response. I can see that the proposals for Carrigwohill are broad and wide-ranging, and also well designed and very much needed to facilitate and assist with the planned growth of Carrigwohill. The total cost of all these improvements amounts to €12,343,200, inclusive of a 20% contingency but excludes VAT. The planning authority will receive 75% funding for all these measures under the URDF but 25% must be found locally and it has been determined that this will be raised by special development contributions levied on permitted developments. Estimated cost breakdowns have been provided for each area as follows: Station Road, Main Street, Station Road car parks, Cycle/pedestrian way between Station Road and Main Street, New Road south of Main Street, Main Street car parks, Carrigane Road car park, Wises Road Junction Upgrades and N25 Junction 3 Cobh Cross) Additional Capacity Interim Measures. A set of A4 drawings have been submitted and show the location and extent of the land required for the proposed improvements. Sheet 4 of the drawings submitted by the HIIT shows those works that could affect the appeal site, New Road south of Main Street and Main Street. In addition, extracts from drawings show the detail of works proposed and which have been referenced by the HIIT in arriving at their contribution amount levied in condition 46 and subsequently amended.
- 7.6.10. The scope of works proposed for Carrigwohill are wide ranging and will bring benefits to the town as a whole. I can see that land has been zoned for development, general and specific development objectives are set out in tables on pages 115 to 122 of Volume 4 of the development plan, and these relate to Carrigwohill. At the outset I can see that the Cork County Council Development Contribution Scheme

2004, includes updated rates effective from 1st January 2014, these rates are set out in section 5.0 of my report. The development plan explains that the adoption of the National Planning Framework (2018), the realignment of the Cork local authorities' boundaries (2019) and the adoption of the Southern Region RSES (2020) required work on the review of the general scheme to be paused. It is the intention of the Council to adopt a new development contribution scheme(s) following the adoption of the County Development Plan, but I can see no new development scheme either drafted or published for County Cork.

7.6.11. The applicable rates relate to residential and office/retail development for which the subject appeal has been charged, condition 47 refers. The general scheme provides a breakdown between contributions apportioned to roads and amenity. Most of the section 48 contributions go towards funding roads infrastructure.

7.6.12. Section 19.6 Critical Infrastructure of the current development plan sets out the background to the Council's position in relation to growth and infrastructure and section 19.7 Infrastructure Costs and Funding sets out how that is to be achieved. Table 19.1 Key Infrastructure Costings, states that the Site Infrastructure Cost Range for Carrigwohill is €0 – c.€15m (UEA Lands) and that Settlement Infrastructure Cost is c.€140m (includes national roads investments). The current plan explains that no development contribution scheme can meet the full cost of public infrastructure without applying an increase in levies that would impact on delivery costs – and by extension on the viability and affordability of development projects – and particularly of housing schemes. For all local authority areas, funding in addition to funds generated by their development contribution schemes will be required to provide necessary infrastructure to support the achievement of national policies and to provide the required conditions for population, economic and housing growth.

7.6.13. In this context the development plan examines future infrastructure funding, and the Urban Regeneration Development Fund is identified as a key source. I understand that the Carrigwohill UAE has received URDF funding, and a scheme of works has been agreed under a Part 8 approval. I understand that there is a shortfall and according to the planning authority this is to be sourced through special contributions as evidently the general scheme cannot be relied upon to meet full infrastructure costs. That being so, the planning authority have decided to levy a special

contribution in order to unlock and implement funding for infrastructural and public realm improvements for Carrigwohill, this is understandable. Condition 46 has been written in accordance with the 2000 Act and the particular works to be carried out have been specified.

7.6.14. As I see it, a problem arises insofar as it is not clear how the amount to be charged has been arrived at and I cannot be certain that a fair apportionment of costs has occurred in some cases. In addition, the guidelines state that a special development contribution may be imposed under section 48(2)(c) where specific exceptional costs, which are not covered by the general contribution scheme, are incurred by a local authority in the provision of public infrastructure or facilities which benefit very specific requirements for the proposed development, such as a new road junction or the relocation of piped services.

7.6.15. Firstly, I note that the Cobh Cross Interim Measure falls outside the terms of the URDF and is therefore not funded by that measure. The HIIT report states that the improvement to Cobh Cross is needed to support the growth of the town, reduce traffic queuing and congestion, until TII implement further improvements at some point in the future. The applicant points out that Cobh Cross is some distance away and will benefit the entire town. In addition, the applicant explains that their own traffic modelling concludes that their development can be accommodated at present. The planning authority disagree and thanks to their own modelling of the entire area, the improvements to Cobh Cross are necessary.

7.6.16. Cobh Cross is located over 1.5 kilometres to the west of the site and provides the main western gateway to the town from the N25. A significant commercial area is located to the north of the current interchange and access to emerging residential development on the western side of the town would favour this route to the N25 and Cork city beyond, if not using train services. I see improvements to Cobh Cross as a strategic goal and this is confirmed by the mention of the TII and plans it may have for the full upgrade of the interchange and the wider use of the N25. In very simple terms the interim measures planned for Cobh Cross will serve the town as a whole, not just the appeal site. Therefore, the application of this charge falls outside the terms of a section 48(2)(c) condition. I am not satisfied that a charge of €157,143 should be levied with respect to the Cobh Cross Interim Measure

- 7.6.17. With specific reference to the appeal site, under plans that I have seen, the site will be accessed in the future from the south by a new link road (objectives CT-U-17/CT-U-18) and the junction of Well Lane and Main Street will see significant improvements. Initially, the development has been permitted on the basis that the main access will be taken from Well Lane and Main Street junction improvements proposed by the applicant have been accepted, subject to condition 6 that refers to third party access arrangements and condition 37 and 38 that require closure of the Well Lane Main Street junction and be reserved for pedestrian access only. It is therefore very clear that the proposed vehicular access to these lands will be from a new road to the south west, that has planning consent and this directly benefits the proposed development. I am satisfied that some portion of the costs for the new link road should be borne by the applicant/developer and these have been adequately rationalised and apportioned by the HIIT report of the 15 November 2022. Thus the amount of €197,917 for the new access link road should stand.
- 7.6.18. With reference to the Main Street and Station Road Access, the HIIT report states that this piece of infrastructure will benefit a wide number of sites along its length, but it is noted that the application site includes land destined to form a future civic space. In that context a reduction to the calculation of special contribution is concluded and the amount stands at €153,751. Based on the application site being just over 8% of the project area I can see that the amount to be levied has been rationalised and apportioned by the HIIT report of the 15 November 2022 seems fair and reasonable.
- 7.6.19. With reference to car parking spaces, the HIIT report notes that a shortfall of 10 car parking spaces results from the provision of just 80 spaces to the anchor store, and a charge of €27,500 is arrived at. The applicant is critical of this decision and in the context of sustainable planning contends that car parking standards can be relaxed. I see that the development plan states that revised car parking standards can be examined in the context of brownfield and regeneration sites. On the one hand the development plan encourages car parking reductions in certain circumstances and adherence to minimum standards in others, such as larger format town centre developments. This is all discussed at length in section 12.12 of the current development plan. Table 12.6 sets out the car parking standards for developments and it is clear that 90 spaces would be required for the retail element of the permitted development. However, footnote 2 of the table states that a reduced car parking

provision may be acceptable where the planning authority are satisfied that good public transport links are already available or planned and/or a Transport Mobility Plan for the development demonstrates that a high percentage of modal shift in favour of the sustainable modes will be achieved through the development. I see that the site lies 900 metres south of the existing Carrigtwohill rail station and improvements along the route between site and station are planned for and approved. Part of condition 46 seeks a contribution in this context, and I see that as acceptable. However, I do not think that a reduction in car parking should be penalised when the site proposes to provide a significant quantum of car parking and improve the public realm in general. In my view it is counterintuitive to support more sustainable forms of transport at the same time seek a levy in order to provide car parking elsewhere. In this instance, I am satisfied that footnote 2 of table 12.6 should be invoked and a reduction in car parking is acceptable and a special contribution to facilitate more car spaces elsewhere should not be charged.

Special Contribution Condition Conclusion

7.6.20. I have had regard to the documentation from the planning authority on file and the grounds of appeal submitted by the applicant. I have examined the current General Development Contribution Scheme and the development plan with regard to car parking and development contributions in general. Though the public realm improvements for Carrigtwohill are desirable and necessary to support the planned growth of the town, I am not satisfied that all of the measures that have been charged to the applicant are in accordance with the terms of the Planning and Development Act 2000, as amended. Specifically, I find that the Cobh Cross Interim Measure and Car Parking Charge measures will benefit not just the proposed development, but the wider area in general and so fall outside the remit of a section 48(2)(c) special contribution condition. I submit that the proposed improvement works, whilst benefitting the proposed development, would not be specific to the current scheme or exceptional and will benefit development in the immediate vicinity and the wider community. However, I am satisfied that in accordance with the planning authority and HIIT report in response to the applicant's grounds of appeal that the following elements of condition 46 should remain, as follows:

- New Link Access Road - €197,917

- Main Street and Station Road Upgrades - €153,751
- Total amount of special contribution - €351,668

7.6.21. Only developments that will benefit from the public infrastructure or facility in question should be liable to pay a special development contribution, I find this to be a reasonable and proportional amount to charge.

8.0 Recommendation

8.1. I recommend that planning permission should be granted subject to conditions, for the reasons and considerations as set out below.

9.0 Reasons and Considerations

Having regard to the provisions of the Cork County Development Plan 2022-2028, the Town Centre/Neighbourhood Centre zoning objective for these lands and the designation as a Regeneration Area CT-RA-01 in Volume 4 South Cork of the development plan, to the location of the subject site within the town centre of Carrigwohill, and to the existing pattern of development in the vicinity of the site, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential amenities of properties in the vicinity, would not be detrimental to the character and amenity of the area, and would be acceptable in terms of pedestrian and traffic safety. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars submitted on the 29th day of June and 15th day of September 2022, and by the further plans and particulars received by An Bord Pleanála on the 3rd day of November 2022, 30th day of November 2022 and 7th day of December 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 revised and comprehensive boundary treatment and landscaping scheme shall be submitted to and agreed in writing with the planning authority, prior to commencement of development. This scheme shall include the following:-

- (a) details of all proposed hard surface finishes, including samples of proposed paving slabs/materials for footpaths, kerbing and road surfaces within the development;
- (b) proposed locations of trees and other landscape planting in the development, including details of proposed species and settings;
- (c) details of proposed street furniture, including bollards, lighting fixtures and seating;
- (d) details of proposed boundary treatments at the entrance to apartment buildings and perimeter of the site, including heights, materials and finishes.
- (e) Details of all proposed pedestrian and cyclist connection points to adjoining sites.

The boundary treatment and landscaping shall be carried out in accordance with the agreed scheme.

Reason: In the interest of visual and residential amenity.

3. Details of the materials, colours and textures of all the external finishes to the proposed buildings shall be as submitted with the application, unless otherwise agreed in writing with, the planning authority prior to commencement of development. In default of agreement the matters in dispute shall be referred to An Bord Pleanála for determination.

Reason: In the interest of visual amenity

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

Reason: In the interests of amenity and public safety.

5. Proposals for a street, building and public space naming scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all street signs and dwelling 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 names.

Reason: In the interest of urban legibility.

6. No advertisement or advertisement structure other than those shown on the drawings submitted with the application shall be erected or displayed on buildings or within the curtilage of the site in such a manner as to be visible from outside the building, unless authorised by a further grant of planning permission.

Reason: In the interest of visual amenity.

7. Drainage arrangements including the attenuation and disposal of surface water, shall comply with the requirements of the Planning Authority for such works and services.

Reason: In the interests of public health.

8. The developer shall enter into water and wastewater connection agreements with Uisce Éireann, prior to commencement of development.

Reason: In the interest of public health.

9. The management and maintenance of the proposed development following its completion shall be the responsibility of a legally constituted management company. A management scheme providing adequate measures for the future maintenance of public open spaces, roads and communal areas shall be submitted to, and agreed in writing with, the planning authority prior to occupation of the development.

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

10. Prior to the occupation of the development, a Parking Management Plan shall be prepared for the development and shall be submitted to and agreed in writing with the planning authority. This plan shall provide for the permanent retention of the designated residential parking spaces and shall indicate how these and other spaces within the development shall be assigned, segregated by use and how the car park shall be continually managed.

Reason: To ensure that adequate parking facilities are permanently available to serve the proposed residential units.

11. Final design details in respect of surface level visitor / short-term bicycle parking, shall be submitted to and agreed in writing with the planning authority prior to the commencement of development on the site. Details to be agreed shall include the proportion and location of cycle parking spaces to be provided as covered spaces and the design of parking structures.

Reason: To ensure that a satisfactory quality of bicycle parking is available to encourage sustainable travel patterns.

12. Prior to the opening/occupation of the development, a Mobility Management Strategy shall be submitted to and agreed in writing with the planning authority. This shall provide for incentives to encourage the use of public transport, cycling, walking

and carpooling by residents / occupants / staff employed in the development and to reduce and regulate the extent of parking. The mobility strategy shall be prepared and implemented by the management company for all units within the development.

Reason: In the interest of encouraging the use of sustainable modes of transport.

13. A minimum of 10% of all communal car parking spaces should be provided with functioning EV charging stations/points, and ducting shall be provided for all remaining car parking spaces, including in-curtilage spaces, facilitating 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 prior to the occupation of the 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 for each apartment unit shall be submitted to, and agreed in writing with, the Planning Authority not later than 6 months from the date of commencement of the development. Thereafter, the waste shall be managed in accordance with the agreed plan.

(b) This plan shall provide for screened communal bin stores, the locations and designs of which shall be included in the details to be submitted.

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

15. The construction of the development shall be managed in accordance with a Construction and Environmental 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:

- a) Location of the site and materials compounds including areas identified for the storage of construction refuse.
- b) Location of areas for construction site offices and staff facilities.
- c) Details of site security fencing and hoardings.
- d) Details of on-site car parking facilities for site workers during construction.
- e) Details of the timing and routing of construction traffic to and from the construction site and associated directional signage, to include proposals to facilitate the delivery of abnormal loads to the site.
- f) Measures to obviate queuing of construction traffic on the adjoining road network.
- g) Measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network.
- h) Alternative arrangements to be put in place for pedestrians and vehicles in the case of the closure of any public road or footpath during the course of site development works.
- i) Details of appropriate mitigation measures for noise, dust and vibration, and the location and frequency of monitoring of such levels.
- j) Containment of all construction-related fuel and oil within specially constructed bunds to ensure that fuel spillages are fully contained. Such bunds shall be roofed to exclude rainwater.
- k) Means to ensure that surface water run-off is controlled such that no silt or other pollutants / contaminants enter local surface water sewers or drains.
- l) A record of daily checks that the works are being undertaken in accordance with the Construction Management Plan shall be kept for inspection by the planning authority.
- m) Measure to fully remediate the site in accordance with a Construction Stage Invasive Plant Species Management plan, in advance of the commencement of construction activities.

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

16. A suitably qualified / experienced Ecologist shall be appointed in the role of Ecological Clerk of Works, who shall be responsible for the implementation, management and monitoring of the identified construction mitigation measures, and the Construction and Environmental Management Plan.

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

17. Construction and demolition waste shall be managed in accordance with a finalised Construction and Demolition Waste Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the “Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects”, published by the Department of the Environment, Heritage and Local Government in July 2006. The plan shall include details of waste to be generated during site clearance and construction phases, including contaminated materials, and details of the methods and locations to be employed for the prevention, minimisation, handling, recovery and disposal of this material in accordance with the provision of the Waste Management Plan for the Region in which the site is situated. Full project waste disposal records shall be maintained and be available for inspection by the planning authority.

Reason: In the interest of sustainable waste management.

18. 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.

19. Prior to the commencement of any own door apartment unit in the development as permitted, the applicant or any person with an interest in the land shall enter into an agreement with the planning authority (such agreement must specify the number and location of each own-door unit), pursuant to Section 47 of the Planning and Development Act 2000, that restricts such own door units 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.

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

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

21. Delivery times shall be restricted to between 08.00 hours and 22.00 hours Monday to Saturday and between 10.00 hours and 22.00 hours on Sundays. No delivery activity of any kind shall take place outside these hours.

Reason: In the interest of residential amenity.

22. The following requirements in terms of traffic, transportation and mobility shall be incorporated into the development and where required, revised plans and particulars demonstrating compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development:

- (a) The details and the extent of all road markings and signage requirements on surrounding roads, shall be submitted to the Planning Authority for approval prior to the commencement of development.
- (b) The roads and traffic arrangements serving the site (including signage) shall be in accordance with the detailed requirements of the planning authority for such works and shall be carried out at the developer's expense.
- (c) The internal road network serving the proposed development including turning bays, junctions, parking areas, footpaths, cycle paths and kerbs, pedestrian crossings and car parking bays shall comply with the requirements of the Design Manual for Roads and Streets and with any requirements of the planning authority for such road works.
- (d) The materials used on roads and footpaths shall comply with the detailed standards of the planning authority for such road works.
- (e) The developer shall carry out a Stage 3 Road Safety Audit of the constructed development on completion of the works and submit to the planning authority for approval and shall carry out and cover all costs of all agreed recommendations contained in the audit.
- (f) the interim junction solution at Well Lane and Main Street shall be made pedestrian/cyclist and adjoining property access only upon the completion and satisfactory connection of the development to the New Link Road (CT-U-18).

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

Reason: In the interests of traffic, cyclist and pedestrian safety and sustainable travel.

23. A plan containing details for the management of waste within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the waste shall be managed in accordance with the agreed plan.

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

24. All service cables associated with the proposed development (such as electrical and telecommunications) shall be located underground throughout the site.

Reason: In the interests of visual and residential amenity.

25. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the

Development Contribution Scheme made under section 48 of the Act be applied to the permission.

26. The developer shall pay a financial contribution to the planning authority as a special contribution under Section 48(2)(c) of the Planning and Development Act 2000, as amended, in respect of works proposed to be carried out, for the provision of the New Link Access Road (€197,917) and Main Street and Station Road Upgrades (€153,751), which benefits the proposed development. The amount of the contribution shall be €351,668. The contribution shall be paid prior to commencement of development or in such phased payments as may be agreed prior to the commencement of the development and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the terms of payment of this financial contribution shall be agreed in writing between the planning authority and the developer.

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

27. The developer shall pay to the planning authority a financial contribution in respect of Cobh / Midleton – Blarney Suburban Rail Project in accordance with the terms of the Supplementary Development Contribution Scheme made by the planning authority under section 49 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 Supplementary Development Contribution Scheme made under section 49 of the Act be applied to the permission

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.

Stephen Rhys Thomas
Senior Planning Inspector

21 March 2024

Appendix 1 - Form 1

EIA Pre-Screening

[EIAR not submitted]

An Bord Pleanála Case Reference	ABP-315010-22		
Proposed Development Summary	Residential, retail, offices, pharmacy and café development with all associated works, on a site of 1.6 Hectares.		
Development Address	Main Street, Carrigtwohill (Carrigtohill), Co. Cork.		
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings)	Yes	✓	
	No	No further action required	
2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) and does it equal or exceed any relevant quantity, area or limit where specified for that class?			
Yes			EIA Mandatory EIAR required
No	✓		Proceed to Q.3
3. Is the proposed development of a class specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) but does not equal or exceed a relevant quantity, area or other limit specified [sub-threshold development]?			
		Threshold	Comment (if relevant)
No	✓	10. Infrastructure projects, (b) (i) Construction of more than 500 dwelling units. And	Urban development, mixed use comprising 43 dwellings and 4,149 sqm retail/office space, all on a site of 1.6
			Conclusion
			No EIAR or Preliminary Examination required

		(iv) Urban development which would involve an area greater than 2 hectares in the case of a business district, 10 hectares in the case of other parts of a built-up area and 20 hectares elsewhere.	Hectares, in the town centre. Scale of development is less than 500 dwelling units, on a site 1.6 Hectares within the business district area.	
Yes				Proceed to Q.4

4. Has Schedule 7A information been submitted?		
No		Preliminary Examination required
Yes		Screening Determination required

Inspector: _____

Date: _____