



An
Bord
Pleanála

Inspector's Report

ABP-319092-24

Development

Permission for the demolition of an existing dwelling and associated shed and the construction of a 90 no. unit residential development and all ancillary site development works at 'Villa Maria' and adjacent lands, Skehard Road, Cork, T12 P2RA. The proposed development consists of 26 no. 1 bedroom units and 48 no. 2 bedroom units in 3 no. 4-5 storey apartment buildings. In addition, the proposal includes 12 no. 2-storey townhouses, comprising 5 no. 2 bedroom units and 7 no. 3 bedroom units and 4 no. 2 bedroom duplex units. Access to the proposed development will be via an existing vehicular and pedestrian entrance off Skehard Road.

Location

Villa Maria and adjacent lands,
Skehard Road, Cork

Planning Authority

Cork City Council

Planning Authority Reg. Ref.	2342092
Applicant	Lyonshall Limited.
Type of Application	Permission.
Planning Authority Decision	Grant, subject to conditions.
Type of Appeal	First Party V. Conditions 2 and 3. Third Party V. Grant.
Appellants	Teddy and Noelle Irwin Thomas Russell
Observer	Michelle Barry.
Date of Site Inspection	17 th July 2024.
Inspector	Terence McLellan

1.0 Site Location and Description

- 1.1. The appeal site refers to the 0.63ha rectangular site located on the south side of Skehard Road, between the junctions of Bessboro Road and Church Road, approximately 5km to the southeast of Cork City centre. The western half of the site is occupied by a vacant two storey detached dwelling known as Villa Maria and its associated yard. The eastern half of the site is a cleared field. There are no significant level changes evident on the site.
- 1.2. The main frontage of the site is to the north onto Skehard Road which is currently hoarded. Opposite the site on Skehard Road are two storey terraced dwellings. The eastern and southern boundaries of the site are marked by a brick boundary wall separating the site from the rear garden ground of the dwellings on the Clover Hill Estate. The dwellings immediately bounding the site to the east and south are detached one and a half storey 'A' frame homes, although the remainder of the Clover Hill Estate comprises more traditional two storey semi-detached homes. The site is bounded to the west by a neighbourhood centre primarily occupied by a Supervalu supermarket and car park, in addition to a small parade of single storey commercial premises fronting Skehard Road. The area is mainly suburban in nature, comprising low density two storey detached, semi-detached, and terraced dwellings.
- 1.3. In transport terms there is a bus stop directly opposite the site on Skehard Road which is served by Bus Éireann services 202, 202A, 215, 215A, and 219. Skehard Road has recently been upgraded and will become a BusConnects Sustainable Transport Corridor (STC-J).

2.0 Proposed Development

- 2.1. Planning permission is sought for the redevelopment of the site to provide 90 homes across three apartment blocks and three terraces of dwellings. The apartment blocks would range in height from three to five storeys and all of the terraced dwellings would be two storey. The proposal has been developed in conjunction with Tuath Housing as a cost rental scheme.

- 2.2. Block 1 – This block would be part five/part four storeys in height and would accommodate 37 apartments comprising 12 no. one bed, 6 no. two bed/three person, and 19 no. two bed/four person units.
- 2.3. Block 2 – A part five/part four storey building providing 23 apartments, comprising 6 no. one bed and 17 no. two bed/four person units.
- 2.4. Block 3 – At part four/part three storeys, Block 3 would provide 14 apartments comprising 8 no. one bed and 6 no. two bed/three person units.
- 2.5. In terms of terraced dwellings, the first terrace would comprise 3 no. two bedroom, two storey dwellings between Block 1 and Block 2, with frontages onto Skehard Road and ground floor amenity terraces to the rear. The second terrace would be located to the rear of Block 3, aligned with the eastern boundary of the site and comprising 5 no. two bedroom, two storey dwellings. The third terrace would be aligned along the southern boundary to the rear of the blocks fronting Skehard Road. This terrace would comprise 7 no. three bedroom, two storey dwellings. A single two storey, two bedroom unit would be provided on the eastern flank of Block 3.

Table 1. Development Standards

Site Area	0.63 hectares
Demolition Area	239.3sqm
Development Area (GIA)	7833.2sqm
Site Coverage	41.6%
Plot Ratio	1:1.2
Density	143 Units/hectare
Car Parking	24
Bicycle Parking	171 (133 internal and 38 external)
Open Space	1,043sqm

Table 2. Schedule of Accommodation and Unit Mix

	1 Bedroom	2 Bedroom (3 person)	2 Bedroom (4 person)	3 Bedroom (5 person)	Total
Block 1 Apts	12	6	19	0	37
Block 2 Apts	6	0	17	0	23
Block 3 Apts	8	6	0	0	14
Dwellings/duplexes	0	1	8	7	16
Total	26	13	44	7	90
% of units	29%	14%	49%	8%	100%

2.5.1. The Board should note that Condition 2 of the planning permission omits Level 2 of the apartments. This is a net reduction of 18 units and amends the schedule of accommodation as set out in the table below.

Table 3. Schedule of Accommodation and Unit Mix (Condition 2)

	1 Bedroom	2 Bedroom (3 person)	2 Bedroom (4 person)	3 Bedroom (5 person)	Total
Block 1 Apts	9	4	15	0	28
Block 2 Apts	5	0	13	0	18
Block 3 Apts	6	4	0	0	10
Dwellings/duplexes	0	1	8	7	16
Total	20	9	36	7	72
% of units	28%	12%	50%	10%	100%

3.0 Planning Authority Decision

3.1. Decision

3.1.1. Notification of the Decision to Grant Permission was issued by Cork City Council on 26th January 2024, subject to 35 generally standard conditions. Conditions of note include:

2. The proposed Level 02, containing 18 No. apartments, shall be omitted from the proposed development and prior to the commencement of development revised plans and elevations showing this omission shall be submitted to the Planning Authority for full agreement in writing.

Reason: In the interests of clarity and residential amenity.

3. The proposed two storey Duplex Block located on the eastern side of the site shall be reduced to one and a half storey to match the existing ridge height of the adjacent third party dwelling located further to the east, and prior to the commencement of development revised plans and elevations showing this alteration shall be submitted to the Planning Authority for full agreement in writing.

Reason: In the interests of visual and residential amenity.

16. The total parking supply on the site shall not exceed 24 spaces. The following shall apply:

a) The provision of a maximum of 24 car parking spaces inclusive of 2 disabled parking spaces for the full development.

b) The provision of a minimum of 171 high quality covered cycling parking facilities.

c) The provision of 4 EV car charging spaces and the rest ducted for future EV car use.

Reason: In the interests of traffic safety.

17. Prior to commencement of development a Stage 1/2 Road Safety Audit shall be submitted. All findings of the Road Safety Audit shall be closed out, signed off and incorporated into the development. A Stage 3/4 Road Safety Audit shall

also be undertaken, closed out, signed off and acted upon. All costs associated with this condition shall be borne by the Applicant.

Reason: In the interests of traffic safety.

3.2. Planning Authority Reports

3.2.1. The first Planner's Report was issued on the 3rd August 2023 and contains the following points of note.

- The target density for the area is 40-80uph and the proposed density is 142uph which is considered to be excessive, does not comply with the requirements of the CDP, would set an unwelcome precedent, and would place additional strain on services and infrastructure.
- Housing mix is not compliant with the targets in the CDP. It is noted that the targets can be lowered when justified by evidence (need/demand/market evidence). Evidence submitted includes information from Tuath Housing stating that they are happy with the proposed housing mix that is to be submitted for cost rental units as part of the proposed scheme. The Planning Authority considered the evidence and independent peer review of market data acceptable but maintained concerns regarding the low number of three bedroom units. Further information for a greater number of three bed units is required.
- All homes satisfy housing quality standards.
- Prevailing heights are generally two storeys, the CDP has a building height target of 3-5 storeys. However, regard must be had to the immediate context, and it is considered that the proposed apartment blocks are not acceptable in terms of overall massing, form and relationship with the site boundary and houses beyond. It is stated that three to four storeys would work better.
- Concerns raised regarding the impact of proposed Block 3 on Nos. 53 and 54 Clover Hill Estate, in terms of overshadowing and outlook which should be addressed either by height reduction or greater separation distance.

- Noted that the threshold for the provision of a creche has not been reached however Cork City Childcare would strongly advocate for provision of given the limited availability in the area.
- Concerns were raised in terms of transport, services, drainage, and Part V provisions (detailed in Section 3.2.2 below).

3.2.2. The first Planner's Report concluded that there was insufficient information to make a decision, and that Further Information would be required. A total of 15 points of Further Information were requested by the Planning Authority on 10th August 2023 as summarised below:

1. Density – Revised layouts, plans and elevations with a reduced density to meet the requirements of the Cork CDP.
2. Unit Mix – Increased number of three bedroom units.
3. Building Height - Revised plans/elevations to show building heights of maximum four storeys.
4. Design/Amenity – Reduce height of Duplex unit (Block 3) from two storey to single storey or increase the separation distance. A revised daylight/sunlight assessment is required, considering impacts on properties to the north, east and south of the site.
5. Drainage – Details of Surface Water Drainage System. Including discharge location and how greenfield rate would be achieved. Clarity required on taking in charge, use of attenuation tanks, why development is not discharging to existing storm sewer.
6. Infrastructure – Details of adjustments to show setbacks for BusConnects on Skehard Road.
7. Environment – Full details required for waste management.
8. Environment – Details of updated Construction and Demolition Waste Management Plan.
9. Housing – Revised proposals required showing increase in gross area to meet 10% Part V obligation.

10. Urban Roads and Street Design – Details of dropped kerbs and tactile paving at the access junction in compliance with DMURS.
11. Urban Roads and Street Design – Clarity on access arrangements and manoeuvring ability for service/waste vehicles in the west of the site.
12. Traffic Regulation and Safety – Provision of EV parking.
13. Traffic Regulation and Safety – Provision of details of proposed signage and road markings on Skehard Road.
14. NTA – Information required regarding setbacks for BusConnects, vehicular access arrangements, permeability and cycle parking.
15. Childcare Facilities – Some form of childcare facility should be considered by the applicant to help alleviate the lack of local facilities.

3.2.3. The Applicant formally responded to the Further Information request on the 11th November 2023. This was considered in the second Planner's Report dated 4th December 2023 which contains the following points of note.

- Issue of density and building height have not been addressed. It is recommended that Level 2 be omitted, this would reduce building heights to a maximum of four storeys and reduce the density from 142 uph to 114 uph.
- Additional information submitted to justify housing mix is considered acceptable and the housing mix would be incidentally improved by the condition to remove Level 2 of the development, and it is noted that Part V is also now acceptable.
- The height of the duplex unit has not been addressed, nor has separation distance been increased. It is recommended that this be dealt with by condition, limiting the duplex to one and a half storeys in height. The removal of Level 2 of the Development would deal with the height issue on Block 3.
- Information submitted with regards to Infrastructure Development (point 6), Environment (points 7 and 8), Part V (point 9), Urban Roads and Street Design (points 9 and 10), Traffic Regulation and Safety (points 12 and 13) and the NTA (point 14) were considered acceptable.

- In terms of childcare provision, the Applicant maintained their position that a facility would not be required given the nature/scale of the development and the Planning Authority considered this to be acceptable.

3.2.4. Outstanding issues were identified with regards to drainage and a Clarification of Further Information was requested by the Planning Authority on the 5th December 2023, largely regarding the use of attenuation tanks and management of surface water. The Applicant responded to the request for Clarification of Further Information on 21st December 2023. This was considered in the third Planner's Report, dated 21st January 2024 which concluded that the information submitted was acceptable. Planning permission was then granted, subject to conditions.

3.2.5. **Other Technical Reports**

3.2.6. **City Architect (19.07.2023):** There is a hierarchy in terms of built form, with mainly three to five storey apartments forming a street edge to Skehard Road and two storey houses forming an internal street. The overall massing is considered to be satisfactory as is detailed design and materials. Density is a concern and could be addressed by varying the house type mix, the inclusion of a creche at ground level or possible removal of floor height.

3.2.7. **Contributions (02.08.2023, 01.12.2023):** No objections subject to conditions to secure contributions.

3.2.8. **Cork City Childcare (25.07.2023):** The requirement for 75 houses has not been reached but Cork City Childcare strongly advocate for the provision of childcare facilities given the limited availability in the area.

3.2.9. **Drainage (20.07.2023, 21.11.2023, 17.01.2024):** Information in relation to storm water drainage was considered insufficient and it was recommended that Further Information be sought to clarify details with regards to SUDS, run-off rates, discharge location and how greenfield rates would be achieved, clarity on taking in charge, and use of attenuation tanks. Clarity was also sought on why the development is not discharging to the existing storm sewer. Further information was submitted by the Applicant, the Drainage section were reconsulted and sought further clarification on drainage issues, largely relating to surface water drainage and the use of attenuation tanks. Following the submission of additional information to clarify matters, the Drainage Section confirmed no objection to the grant of permission, subject to conditions.

- 3.2.10. **Environment (06.07.2023, 20.11.2023):** Further Information was requested regarding details of waste management and an updated Demolition and Construction Waste Management Plan. This information was submitted to the satisfaction of the section and no further objections were raised, subject to conditions.
- 3.2.11. **Infrastructure Development (03.07.2023, 01.12.2023):** Further Information requested regarding how the site boundaries would be adjusted to provide the set back required for the delivery of BusConnects Strategic Transport Corridor. Information was submitted to the satisfaction of the section and a condition was recommended regarding external road design and interface details.
- 3.2.12. **Housing (10.07.2023, 23.11.2023):** Initially responded that the Part V proposal was unsatisfactory as the amassed gross floor area of the proposed Part V units fell short of 10% of the total gross floor area of the full development. Further Information was required to submit a revised proposal to account for an increase in gross floor area to meet the 10% Part V obligation. Following receipt of Further Information, the Housing section confirmed acceptance of the revised proposal, noting there would still be a shortfall in terms of floor area provision and that a compensatory balancing deduction would be applied to costings, should permission be granted. No objections were raised, subject to conditions.
- 3.2.13. **Traffic Regulation and Safety (18.07.2023, 29.11.2023):** Car parking and bicycle parking were considered acceptable. It was noted that any changes to public lighting would need to be agreed with the relevant section of the Council and that a Road Safety Audit would need to be carried out at the site entrance. Further information was required in relation to electric vehicle parking in addition to information on road markings and signage on Skehard Road. Further information was submitted to the satisfaction of the Traffic Regulation and Safety section who raised no objections, subject to conditions.
- 3.2.14. **Urban Roads and Street Design (12.07.2023, 24.11.2023):** Further information was requested regarding details of dropped kerbs and tactile paving at the access junction in compliance with DMURS, liaison with Cork City Council Infrastructure Development Section regarding NTA BusConnects proposals, and clarity on access arrangements/manoeuvring ability for service/waste vehicles in the west of the site.

Further information was submitted to the satisfaction of the section who raised no objections, subject to conditions.

3.3. Prescribed Bodies

- 3.3.1. **Cork Airport (12.07.2023):** No comments.
- 3.3.2. **Inland Fisheries Ireland (04.07.2023):** Request that Irish Water/Cork County Council signify that there is sufficient capacity to ensure that the development does not existing treatment facilities (either hydraulically or organically), does not result in polluting matter entering waterways, or cause or contribute to non-compliance with legislative requirements.
- 3.3.3. **National Transport Authority (20.07.2023):** The location is expected to benefit from an improved level of public transport service, including on the basis of BusConnects (Network Redesign and Sustainable Transport Corridor J) and improved cycle connectivity. The proposal, through consolidation of development along the sustainable transport corridor, serves to complement CMATS' land use priorities. The design of the Strategic Transport Corridor has not yet been finalised, there may be a requirement for some land take from the Applicant's lands and it is recommended that the Applicant be required to consult with the NTA in order to determine the required setback of the site boundary and building line.
- 3.3.4. A left in-left out arrangement should be considered in order to minimise the impact of vehicular movement and protect the capacity of the sustainable transport corridor for the operation of bus services. Recommend that a number of secure cycle parking facilities be provided, rather than locating all secure cycle parking in a single facility, as currently proposed. Design of cycle racks should be consistent with the CDP requirements.
- 3.3.5. **Transport Infrastructure Ireland (11.07.2023):** No observations.
- 3.3.6. **Uisce Éireann (25.07.2023):** No objection, subject to standard observations.

3.4. Third Party Observations

- 3.4.1. Approximately 27 observations were submitted to the Planning Authority in response to the planning application, including observations from Councillors Kieran McCarthy,

Peter Horgan, and Terry Shannon. The observations are on file for the Board's information and raise similar issues to the grounds of appeal and observations submitted in response to the appeal which are detailed in section 6.0 below.

4.0 Planning History

Subject Site

4.1. **ABP Reference 312553-22/Planning Authority Reference 2140052:** Permission was refused by the Board in May 2022 for the demolition of the existing dwelling and associated shed and construction of a mixed use convenience retail, residential and café development including 20 new homes. Buildings would be a maximum of three storeys high. The Board refused permission for the following reason:

1. The proposed development would, by reason of the scale of the proposed retail expansion, be contrary to the policies and objectives of the Cork City Development Plan 2015 - 2021, including Objective 4.6 and Sections 4.19 and 15.10, with regard to Neighbourhood Centres, the expansion of same and their primary purpose to fulfil a local shopping function. It is considered that the proposed application does not comply with the requirements of the above objective. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
2. The proposed development site is considered an out-of-centre site in accordance with the order of priority for the location of retail developments as set out in the Retail Planning Guidelines for Planning Authorities 2012 and Section 4.45 of the Cork City Development Plan 2015 - 2021. In this regard only in exceptional circumstances can such sites be considered, where it is demonstrated that no other sites or potential sites including vacant units are available and viable. It is considered that the retail impact assessment and sequential test submitted as part of the application fails to consider fully the availability of alternative sites within established neighbourhood centres in the catchment. The proposed development would be in conflict with the Ministerial guidelines and the provisions of the development plan and would, therefore, be contrary to the proper planning and sustainable development of the area.

Adjacent sites

- 4.2. There is a detailed planning history for the commercial premises to the west of the site as well as several permissions for domestic works to dwellings in the area. I do not consider any of these to have any specific relevance to the proposed development.

Bessboro Road (to the south east of the site)

- 4.3. **ABP Reference -302784/Planning Authority Ref. TP 18/37820:** In February 2019, the Board granted permission for the construction of 135 residential units comprising 24 houses, 64 duplex apartments, a three storey apartment block (comprising 20 no. apartments), and a four storey apartment block (comprising 27 no. apartments). This development has been completed.

5.0 Policy Context

5.1. Development Plan

Cork City Development Plan 2022-2028

- 5.1.1. The appeal site is categorised as Zone ZO 1: Sustainable Residential Neighbourhoods, the primary objective of which is to protect and provide for residential uses and amenities, local services and community, institutional, educational, and civic uses. The CDP also notes that development in this zone should generally respect the character and scale of the neighbourhood in which it is situated.
- 5.1.2. Chapter 2: Core Strategy seeks to deliver Strategic Objective 1 of the CDP, Compact Liveable Growth, with the aim of improving quality of the life in the city. The relevant objectives of this chapter are:
- Objective 2.1: The 15 Minute City
 - Objective 2.31: Compact Growth
 - Objective 2.32: Housing Supply
- 5.1.3. Chapter 3 of the CDP sets out the policies for achieving Strategic Objective 2, Delivering Homes and Communities, with the aim of delivering housing and creating and maintaining sustainable neighbourhoods and the community infrastructure

needed to ensure that diverse communities all benefit from a good quality of life. The relevant objectives of this chapter are:

- Objective 3.1: Planning for Sustainable Neighbourhoods
- Objective 3.3: New Housing Supply
- Objective 3.4: Compact Growth
- Objective 3.5: Residential Density
- Objective 3.6: Housing Mix
- Objective 3.9: Adaptation of Existing Homes, Infill Development, and Conversion of Upper Floors.

5.1.4. Chapter 9 contains the Council's policies for delivering environmental infrastructure in line with Strategic Objective 8. Proposals for new development in Cork City will not be permitted where they would have an unacceptable detrimental impact on water resources or infrastructure, water quality or air quality, have inadequate waste management mitigation, generate excessive noise or otherwise have an unacceptable detrimental impact on the environmental infrastructure of Cork City. The relevant objectives from this chapter include:

- Objective 9.4: Sustainable Urban Drainage Systems (SUDS)
- Objective 9.1: Development in Flood Risk Areas

5.1.5. Chapter 10 of the CDP focuses on the key growth areas identified in the Core Strategy and the Growth Strategy. Where the Core Strategy and Growth Strategy provide overarching direction for city growth, this Chapter provides more area and site-specific detail. The growth proposed is in line with the Core Strategy, being proportionate to the scale of the area and its ability to accommodate new development.

5.1.6. Chapter 11 includes the policies aimed at delivering Strategic Objective 9, Placemaking and Managing Development. This chapter sets out the Council's guidance and priorities for development proposals. Of primary importance is securing development of the highest architectural and urban design quality that is people-centric and resilient to climate change and other challenges. The relevant objectives and sections of this chapter are:

- Objective 11.1 Sustainable Residential Development

- Objective 11.2: Dwelling Size Mix
- Objective 11.3: Housing Quality and Standards
- Objective 11.4: Daylight, Sunlight and Overshadowing
- Section 11.67: Design Quality
- Section 11.78: Dwelling Size and Mix
- Section 11.69: Residential Density
- Section 11.9: Apartment Design
- Section 11.91: Quantitative Standards
- Section 11.92: Qualitative Considerations in the Design of Apartment Schemes
- Section 11.100: Separation, Overlooking and Overbearance
- Section 11.112: Public Open Space in Housing Developments
- Section 11.139: Infill Development
- Section 11.219: Development Adjoining Watercourse Corridors
- Section 11.234: Car and Bicycle Parking
- Section 11.237: Zone 3
- Section 11.244: Disabled Car Parking
- Section 11.248: Bicycle Parking
- Section 11.262: Flood Risk Assessment and Land Use Zoning

5.2. **Cork Metropolitan Area Transport Strategy 2040 (CMATS):** The CMATS sets out an integrated transport planning policy framework for Cork with supporting investment priorities. It is a critical objective of the Regional Spatial and Economic Strategy for the Southern Region and Cork Metropolitan Area Strategy Plan, which also came into effect in 2020. The CMATS proposes significant enhancements to the public transport facilities in the area, including the provision of a Light Rail Transit (LRT) and Bus Connects in the Mahon area, which will service the subject site.

5.3. **Regional Policy**

Regional Spatial and Economic Strategy for the Southern Region

5.3.1. This strategy provides a framework for development at regional level. The RSES supports the National Planning Framework and promotes the regeneration of our cities, towns, and seeks to promote compact urban growth by making better use of under-used land and buildings within the existing built-up urban footprint and to drive

the delivery of quality housing and employment choice for the Region's citizens. The RSES seeks to build a resilient enterprise base and promote innovation and entrepreneurship ecosystems that support smart specialisation, cluster development and sustained economic growth.

5.4. **National Policy**

National Planning Framework – Project Ireland 2040

- 5.5. The NPF addresses the issue of 'making stronger urban places' and sets out a range of objectives which it considers would support the creation of high quality urban places. Relevant Policy Objectives include:
- 5.6. National Policy Objective 2a: A target of half (50%) of future population and employment growth will be focused in the existing five cities and their suburbs.
- 5.7. National Policy Objective 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.
- 5.8. National Policy Objective 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.
- 5.9. National Policy Objective 13: In urban areas, planning and related standards, including in particular building height and car parking, will be based on performance criteria that seek to achieve well-designed high quality outcomes in order to achieve targeted growth. These standards will be subject to a range of tolerance that enables alternative solutions to be proposed to achieve stated outcomes, provided public safety is not compromised and the environment is suitably protected.
- 5.10. National Policy Objective 33: Prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location.
- 5.11. National Policy Objective 35: Increase residential density in settlements, through a range of measures including reductions in vacancy, re-use of existing buildings, infill

development schemes, area or site-based regeneration and increased building heights.

5.12. Ministerial Guidelines

- Urban Development and Building Heights, Guidelines for Planning Authorities (2018). The guidelines state that increased building height and density will have a critical role to play in addressing the delivery of more compact growth in urban areas and should not only be facilitated but actively sought out and brought forward by our planning processes, in particular by Local Authorities and An Bord Pleanála. These Guidelines caution that due regard must be given to the locational context and to the availability of public transport services and other associated infrastructure required to underpin sustainable residential communities.
- Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities (December 2023). These guidelines seek to achieve both high quality apartment development and a significantly increased overall level of apartment output. Standards are provided for apartment sizes, dual aspect ratio and private/communal amenity space.
- Sustainable Residential Development and Compact Settlement - Guidelines for Planning Authorities (2024). The guidelines support the application of densities that respond to settlement size and to different place contexts within each settlement, recognising in particular the differences between cities, large and medium-sized towns and smaller towns and villages. They will also allow greater flexibility in residential design standards and cover issues such as open space, car and cycle parking, and separation distances.

5.13. Natural Heritage Designations

5.13.1. The site is not within or immediately adjacent to any European Sites. The nearest European Sites are the Cork Harbour SPA (site code. 004030), which is approximately 2km away, and the Great Island Channel SAC (site code 001058), which lies approximately 5.5km distant.

5.14. EIA Screening

5.14.1. See completed Form 2 on file. Having regard to the nature, size and location of the proposed development and to the criteria set out in Schedule 7 of the Regulations, I have concluded at preliminary examination that there is no real likelihood of significant effects on the environment arising from the proposed development. EIA, therefore, is not required.

6.0 The Appeal

6.1. Two Third Party appeals have been received against the decision of the Planning Authority to grant permission for the proposed development. Additionally, a First Party appeal has been received against the Planning Authority's decision to impose Conditions 2 and 3 as set out on the Notification of Decision to Grant Permission.

6.2. Third Party Grounds of Appeal

6.2.1. Appeal 1: Thomas Russell, 6 Clover Lawn Estate, Skehard Road, Blackrock, Cork.

- The zoning objective and compact settlement guidelines both seek the protection and enhancement of amenity, and the CDP requires that development respect the character and scale of the neighbourhood within which it is situated.
- The development does not respond to the immediate environment, the design is not in keeping with the established pattern in the vicinity and there would be negative impacts to the detriment of the character of the local area.
- The development would be out of proportion and would visually dominate the dwellings in the immediate vicinity.
- The development would have a serious, detrimental and negative material planning impact on the established residential amenity of residents in the vicinity in relation to the nature and scale of the proposed development and its proximity to the boundary.
- The Applicant argues that the site is in the Mahon City Fringe Area where target density ranges from 50-120u/ha but the site is part of the Ballintemple and Blackrock Inner Suburb with a target density of 40-80u/ha.

- Density, height, and massing are excessive, and housing mix is not compliant. Further Information requested that the density, height, and massing of the development be reduced for amenity reasons. These amendments were not undertaken by the Applicant.
- The Planning Authority imposed a condition seeking the omission of Level 2 to address density, height, and overall design. This still results in a scheme in excess of the target density, it is still too high, and the design would not be in keeping with the established pattern in the area.
- Even with the revisions made during the application and by secured by the condition imposed by the Council, the development would still not respond positively to the immediate environment.
- Development must strike a balance between the reasonable protection of amenity/established character, and the need to provide infill development.
- The quality of accommodation is poor and would not provide a satisfactory standard of amenity for future occupiers in terms of open space due to the size of the open spaces, their location directly adjoining windows and balconies of the residential units, the risk of conflict with car movements and the poor levels of daylight and sunlight. No properly located, dedicated, safe amenity space is provided. Some open space includes access to residential units, other spaces are hemmed in and significantly overshadowed.
- It is not clear how the Applicant arrives at 16.6% open space provision, some of the space included is not usable open space. While the Council note this is over the 10% requirement, there is no commentary on quality or usability of the space, which is a key consideration.
- The development would present a traffic, access and road safety issue.
- Car parking is inadequate and may result in parking on public roads in the vicinity and no sustainable travel plan was prepared despite being requested by the Council.
- The location of the bin store is unacceptable.
- Skehard Road is a busy road with high levels of traffic and creation of another entrance onto it would lead to increased disruption.

- Additional traffic from the development would lead to a traffic safety issue for future residents and the access to the site will become a junction and could lead to accidents.

6.2.2. Appeal 2: - Teddy and Noelle Irwin, 45 Clover Hill Estate, Skehard Road, Blackrock, Cork.

- The development is in conflict with a range of objectives set out in the Cork City Development Plan 2022-2028. The grant of planning permission to a development that is materially at variance with the objectives of an adopted development plan is Ultra Vires.
- Prevailing density in the area is less than 25 u/ha and in many residential estates, is less than 20 u/ha. The Cork City Urban Density and Tall Buildings Study (September 2021) acknowledges the limited extent to which a new model of urban design can be implemented into a long established residential neighbourhood, and this is recognised in the zoning objective which requires development to respect the character and scale of the neighbourhood.
- Taking the target range for housing density proposed for Blackrock and applying the design and density limitations implicit in the zoning objective demonstrates that it might be reasonable to consider a density for this site that is closer to the lower target set for Blackrock and Ballintemple centres (40-80uph).
- The proposed density is excessive, little or no private or communal space is provided and there are few parking spaces. It is incomprehensible that the Planning Authority opted to request Further information, having regard to the size and scale of the development and its extreme divergence from development plan density standards.
- The Further Information response was dismissive of the Planning Authority's requirements and no changes were made to the density.
- The Planners decision to give the applicant an opportunity to redesign the proposal to satisfy the development plan was a mistake and outside their powers. Invoking Article 33 was inappropriate and an abuse of said Article.
- When the proposal was so far removed from what is acceptable based on the development plan land-use objectives for the site, the Planner should have

recommended refusal rather than seeking Further Information for a completely new design and layout.

- When the Further Information did not result in conformity with the density standards, the Planner should have recommended refusal rather than a grant of permission subject to a condition requiring agreement on a new design with 18 units removed; a development with a density of 114 units per hectare; and a development materially at variance with the land-use objective for the site as set out in the development plan.
- Recognise the need to optimise the residential development potential of a vacant and fully serviced site that is zoned for residential development in the development plan, particularly given the present housing shortage.
- Agree with the City Council's Forward-Planning section in their recognition that the site is not at the outer edge of existing residential development and not, therefore, a site suitable for organic development, with design and density freedoms not suitable to infill sites such as the subject site.
- The proposed development, by reason of its scale, height, bulk and proximity to the southern boundary of the site, would constitute an incongruous design intervention resulting in serious injury to the residential amenities and property values of residential properties in the adjoining Clover Hill residential estate.
- The proposed development, by reason of its residential density, scale, height and bulk would constitute an incongruous design intervention in a relatively low-density residential neighbourhood and would be seriously injurious to the residential amenity of the area and the property values of residential properties in the neighbourhood.

6.3. First Party Grounds of Appeal

6.3.1. A First Party Appeal has been received from HW Planning, for and on behalf of the Applicant, Lyonshall Limited, seeking the removal of Conditions 2 and 3. The grounds of appeal are summarised as follows:

- Request that that the appeal be assessed in accordance with Section 139 of the PDA and be restricted to the consideration of the specified conditions only.
- Conditions stem from fundamental issue of density in respect of 18 dwellings only and height in terms of one dwelling.

- Omitting 18 dwellings from the development threatens its viability.
- The decision of the Council was made without any regard to the Compact Settlement Guidelines which came into effect in January 2024.

6.3.2. Condition 2

- It is requested that Condition 2 be omitted in its entirety.
- The rationale for the condition is to reduce the density of the scheme to more closely align with the density target in the CDP, it is not based on any qualitative assessment.
- The Council have failed to have regard to the density objectives of the Compact Settlement Guidelines as required under Section 34 of the Planning and Development Act.
- An assessment driven by a rigid application of CDP density standards is also contrary to the Building Height Guidelines which cautions against the rigid application of generic densities and building heights (see section 1.4).
- The Compact Settlement Guidelines advocate a multi-step approach to defining appropriate density. Under the Guidelines, the site is an accessible City – Urban Neighbourhood where a 50dph-250dph density range shall generally be applied.
- The Guidelines recommend densities at or above the mid density range of 150dph for sites within 500m of a BusConnects ‘Core Bus Corridor’ stop. The site is immediately adjacent to a planned high frequency bus service in the form of BusConnects proposed Sustainable Transport Corridor, with the nearest bus stop within 120m.
- Once implemented, the site would benefit from increased bus frequency of 10 minutes (weekdays and midday Saturday). The site is also within 400m of the proposed Light Rail Transit station as indicated in the Cork Metropolitan Area Transport Strategy.
- In view of the site’s accessible nature, densities at or above the mid density range of 150dph should be encouraged.
- It has been demonstrated that the density would not give rise to any adverse local impacts in terms of overlooking or overshadowing and fully respects the

existing context. This was supported on the previous Board decision (ABP-312553-22) for a similar scaled mixed use development.

- The Guidelines require development to integrate successfully into the receiving environment in terms of quantum and scale. In terms of the Guidelines, local character (scale and massing), and residential amenities are of most relevance.
- CDP has height targets for areas across the city. For Ballintemple and Blackrock, where the site is located, the target range is between 3 and 5 storeys. The development is within this target range.
- Height is concentrated towards the centre of the Skehard Road frontage, where the five storey massing has a suitable relationship to the wide road and provides an appropriate sense of enclosure.
- Heights step down towards the boundaries with residential properties and the scheme has been designed (fenestration and balcony position) to ensure that there would be no impacts in terms of overlooking or loss of privacy.
- The development integrates well with its context, provides appropriate transitions and safeguards amenities to a reasonable extent, in line with the Guidelines. This view was supported on the previous Board decision where height, scale and massing were considered acceptable, as were daylight/sunlight impacts. The general scale and massing have been retained.
- The City Architect considered the development to be acceptable overall and whilst they recommended compliance with the CDP density targets, this was principally proposed by changes to unit mix or provision of a creche rather than changes in scale. Implicit in this is an acceptance that the proposal does not represent overdevelopment.
- 142dph is appropriate at this location and the development respects its context.

6.3.3. Condition 3

- Condition 3 should be omitted in its entirety.
- The reduction in height of the proposed two storey duplex to one and a half storey is unwarranted at this highly sustainable location, with good access to public transport, and would be contrary to both the Compact Settlement Guidelines and the CDP height strategy.

- The condition would reduce the unit from a two bedroom three person duplex home to a 1.5 storey one bedroom home which is unusual, inefficient, and impractical.
- The CDP highlights that prevailing heights are two to four storeys and target heights are three to five storeys. The development sites well within this range.
- The Council's conditioned reduction in the height of the duplex unit 'to be sympathetic' to the adjacent two storey dwelling in the Clover Hill Estate is unwarranted and not in line with the CDP and the Compact Settlement Guidelines state that Planning Authorities should actively promote and support opportunities for intensification.
- The Council cite visual and residential amenity as the reasons for the condition, which stems from an earlier request for Further Information. The Applicant's response to Further Information demonstrated no overlooking or privacy issues and a lack of daylight/sunlight impacts. However, the Planning Authority do not appear to have assessed the RFI response, and no regard has been had to the Compact Settlement Guidelines in relation to separation distances, overlooking and overshadowing.
- There is a 12.84m separation distance and no windows in the eastern façade. There would be no overlooking/privacy impacts. No reduction in height or increase in separation distance is warranted.
- The Compact Settlement Guidelines states that previous separation distances did not account for modern design/construction/light modelling and that separation of less than 16m can be considered in circumstances where there are no opposing habitable room windows and where privacy measures have been designed into the scheme to prevent overlooking.
- The relationship of the development to the existing neighbouring dwellings and the need to protect their amenity was one of the key design considerations underpinning the development of the proposed layout.
- The surrounding Clover Hill Estate is low density, characteristic of traditional suburbs and is not sustainable or efficient. The proposed development responds appropriately and transitions with adjacent buildings without compromising sustainable and compact development.

6.4. Applicant Response to Third Party Appeal

6.4.1. Density

- The Compact Settlement Guidelines came into effect prior to the Council's decision and supersede the density standards. Regard should have been had to these standards in the Council's assessment.
- The Guidelines support brownfield and infill development at scale at suitable locations within the existing built up footprint of the city and suburbs area.
- In terms of the guidelines, the site is within Category iv 'City – Urban Neighbourhood' which includes lands around existing or planned high-capacity public transport nodes or interchanges. Density can range from 50dph to 250dph in urban neighbourhoods of Cork.
- The site is within 120m of an existing bus stop that is to be retained in the STC route and is therefore an accessible city urban neighbourhood.
- The Guidelines state that Planning Authorities should be encouraging densities at or above the mid density range at the most central and accessible locations. It is concluded that the Planning Authority should be encouraging densities equating to 150dph.
- Step 2 of the Guidelines relates to quantum and scale of development and integration into the receiving environment. The development complies in this regard, providing appropriate transitions with adjacent buildings, safeguarding privacy through design and having imperceptible to not significant daylight impacts.
- Residential amenity is safeguarded, and the density is therefore appropriate.
- CDP density standards are targets, not caps, and under Section 34 of the PDA, regard must be had to Section 28 Guidelines such as the Compact Settlement Guidelines which support increased densities across all areas within cities.
- In terms of housing quality, all units are in full compliance with the relevant standards and guidelines.
- Compliance with daylight/sunlight standards can be achieved.

6.4.2. Height

- CDP has height targets for areas across the city. For Ballintemple and Blackrock, where the site is located, the target range is between 3 and 5 storeys. The development is within this target range.
- Height is concentrated towards the centre of the Skehard Road frontage, where the five storey massing has a suitable relationship to the wide road and provides an appropriate sense of enclosure.
- A height transitioning approach has been used to the south, east, and west of the scheme to blend into the receiving environment. Dwellings to the south are uniformly two storeys.
- Height is located appropriately within the site, centrally, offering passive surveillance of open spaces and a strong street frontage.
- The Daylight and Sunlight Assessment demonstrates that impacts would be imperceptible to not significant. No adverse impacts would arise due to the height of the development.
- The proposed wide frontage two storey dwellings would be located at least 15metres from the first floor windows of the dwellings to the south and 16.34m from Appellant 1's property. The proposed houses have no habitable rooms orientated to the south at first floor level and obscure glazing would be used.
- The proposed houses would screen Clover Hill Estate from the proposed apartments. The boundary wall (1.8m) would be retained with concrete capping installed. This would safeguard privacy and residential amenity.
- The Compact Settlement Guidelines states that previous separation distances did not account for modern design/construction/light modelling and that separation of less than 16m can be considered in circumstances where there are no opposing habitable room windows and where privacy measures have been designed into the scheme to prevent overlooking.
- Appellant 2's property is approximately 62m away and it is not envisaged that there would be any detrimental impacts.

6.4.3. Procedural Issues

- The appeal considers the Councils request for a density reduction by way of Further Information Under Article 34 and 25 to be inappropriate and an abuse.

The Applicant deemed that no alterations were required, in light of the Compact Settlement Guidelines.

- The appeal considers that permission should have been refused on the basis of density being a material contravention, rather than being dealt with by Condition 2. CDP density figures are targets, not caps, and the Planning Authority are required to have regard to the density standards within the Compact Settlement Guidelines, which the development is consistent with. There has been no material contravention.

6.4.4. Access, Traffic, and Road Safety

- The provision of 24 car parking spaces is considered appropriate given the sustainable nature of the location in close proximity to the BusConnects Core Bus Corridor. This was supported by the Council.
- The constructed access has been developed by Cork City Council Infrastructural Development Department and the Applicant as part of previous public transport improvements in 2021 where access, traffic and road safety were considered and assessed by the Council.
- Condition 17 requires a Stage 1/2 Road Safety Audit to be carried out prior to commencement and all findings shall be closed out, signed off, and incorporated into the development with a Stage 3/4 audit carried out and acted upon.
- Conditions 18 and 20 require agreement regarding road signage, markings and external road design details.

6.4.5. Quality of Public Open Space Provision

- Contrary to the Appeal, the three open spaces would receive considerably more sunlight than the minimum recommended by the BRE.

6.5. **Planning Authority Response**

6.5.1. No response on file.

6.6. Observations

6.6.1. An observation has been received from Michelle Barry of 50 McGrath Park, Blackrock, Cork. The main points of the observation can be summarised as follows:

- Visual impact would be detrimental to the character of the existing area. The layout, design, and external appearance are not in keeping with the area.
- Overdevelopment.
- Loss of privacy/overlooking, loss of light/overshadowing.
- Non-compliance with Cork City Council Planning policies.
- Noise, air and traffic pollution.
- Drainage system is already overloaded.
- Additional traffic generation would compromise road safety and proposed parking is insufficient and would lead to dangerous parking in an already overcrowded area.
- Permission should be refused, and two storey houses built instead.
- Consideration should be given to construction hours and how construction would be carried out.

6.7. Further Responses

6.7.1. None.

7.0 Assessment

7.1. Having examined the application details and all other documentation on file, including all of the submissions received in relation to the appeal, the reports of the local authority, and having inspected the site, and having regard to the relevant local/regional/national policies and guidance, I consider that the substantive issues in this appeal to be considered are as follows:

- Zoning
- Density

- Design, Height, and Massing
- Quality of Accommodation
- Residential Amenity
- Transport
- Other Matters

7.2. Zoning

7.2.1. The site is zoned ZO1: Sustainable Residential Neighbourhoods, with the stated objective to protect and provide for residential uses and amenities, local services and community, institutional, educational and civic uses. In land use terms the provision of housing is entirely acceptable. I note the grounds of appeal make reference to the development being contrary to the zoning objective on the basis of failing to respect the scale and character of the neighbourhood. This is in relation to section ZO 1.2 of the zoning objective which states that development in this zone should generally respect the character and scale of the neighbourhood in which it is situated, with development that does not support the primary objective of this zone being resisted. I will address these matters in subsequent sections of this report.

7.3. Density

7.3.1. As originally submitted, the proposed development would provide 90 new homes on a 0.63 hectare site resulting in a density of 143uph. The Planning Authority consider the site to be in the Blackrock/Ballintemple area for building height and density purposes, where the CDP states a density target of between 40-80 uph. Following the imposition of Condition 2, the overall scheme would be reduced by 18 dwellings, bringing density to 114uph.

7.3.2. Density is the primary issue in both Third Party appeals, and it is the view of the Appellants that the proposed density is excessive, having regard to the CDP density range for the area and prevailing densities in the immediate surrounds. It is stated in the grounds of appeal that the site is part of the Ballintemple/Blackrock Inner Suburb with a target density of 40-80uph, rather than the Applicant's claim that it is in the Mahon City Fringe Area where target density ranges from 50-120uph. Concerns are raised by the Appellants that the Further Information request by the Planning Authority that sought to address density (in addition to height) was not complied with, and whilst

the Appellants note the inclusion of Condition 2 which seeks the omission of Level 2 of the apartments in order to address density, height, and overall design, it is argued that this would still result in a scheme in excess of the target density and would not be in keeping with the established pattern in the area.

- 7.3.3. The Applicant contends that the Compact Settlement Guidelines, which came into effect prior to the Council's decision, supersede the density standards, and that regard should have been had to these standards in the Council's assessment. The Applicant notes that the Compact Settlement Guidelines advocate a multi-step approach to defining appropriate density and considers that the site would be an accessible City – Urban Neighbourhood where a 50dph-250uph density range should generally be applied. It is argued by the Applicant that the Guidelines support development at scale at suitable locations within the existing built-up footprint of the city and suburbs area, and that given the site location and its accessible nature, the Planning Authority should be encouraging densities equating to 150uph. It is further stated that the development complies with the Guidelines by providing appropriate transitions with adjacent buildings, safeguarding privacy through design, and having imperceptible to not significant daylight impacts. On this basis the Applicant considers that Condition 2 is not required.
- 7.3.4. The National Planning Framework (NPF) promotes the principle of 'compact growth' at appropriate locations, facilitated through well-designed, higher density development. Of relevance are NPOs 13, 33 and 35 of the NPF, which prioritise the provision of new homes at increased densities through a range of measures including, amongst others, increased building heights. The NPF signals a shift in Government policy towards securing more compact and sustainable urban development within existing urban envelopes. The NPF recognises that a significant and sustained increase in housing output and apartment type development is necessary.
- 7.3.5. The RSES for the region further supports consolidated growth and higher densities, promoting compact urban growth by making better use of under-used land and buildings within the existing built-up urban footprint, and to drive the delivery of quality housing and employment choice for the region's citizens.
- 7.3.6. The Building Heights Guidelines (2018), the New Apartments Guidelines (2023), and the Compact Settlements Guidelines (2024), all provide further guidance in relation to

appropriate densities and are supportive of increased densities at appropriate locations in order to ensure the efficient use of zoned and serviced land. All national planning policy indicates that increased densities and a more compact urban form is required within urban areas, subject to high qualitative standards being achieved in relation to design and layout.

- 7.3.7. The Building Heights Guidelines state that increased building height and density will have a critical role to play in addressing the delivery of more compact growth in urban areas and should not only be facilitated, but actively sought out and brought forward by our planning processes, in particular by Local Authorities and An Bord Pleanála. These Guidelines caution that due regard must be given to the locational context and to the availability of public transport services and other associated infrastructure required to underpin sustainable residential communities.
- 7.3.8. The Apartment Guidelines note that increased housing supply must include a dramatic increase in the provision of apartment development to support ongoing population growth, a long-term move towards a smaller average household size, an ageing and more diverse population with greater labour mobility, and a higher proportion of households in the rented sector. The Guidelines address in detail suitable locations for increased densities by defining the types of locations in cities and towns that may be suitable, with a focus on the accessibility of the site by public transport and proximity to city/town/local centres or employment locations.
- 7.3.9. The Compact Settlement Guidelines echo the Government objectives of promoting increased residential densities in appropriate locations. The Guidelines refine the assessment of location and set recommended density ranges. Having regard to the Guidelines, it is my opinion that the appeal site would be categorised as a suburban/urban extension where densities in the range of 40uph – 80uph shall be applied. This would be consistent with the target ranges set out in the CDP and would support the view taken by the Appellants. In terms of the CDP, I broadly agree with the Planning Authority that the site is in Ballintemple/Blackrock as opposed to Mahon. However, I entirely agree with the Applicant that this matter is not at all clear when considering the maps in the Cork City Density, Building Height, and Tall Building Study and it seems likely to me that the site is probably on the boundary of the two areas.

- 7.3.10. In any event, the Guidelines clearly state that densities up to 150uph shall be open to consideration at accessible suburban/urban extension locations. This is defined as being within 500m of existing or planned high frequency urban bus services. Intermediate locations are considered to be lands within 500-1,000 metres (10-12 minute walk) of existing or planned high frequency (i.e. 10 minute peak hour frequency) urban bus services; and lands within 500 metres (i.e. 6 minute walk) of a reasonably frequent (minimum 15 minute peak hour frequency) urban bus service.
- 7.3.11. The appeal site benefits from a bus stop immediately adjacent on Skehard Road which is served by bus routes 202, 202A, 215, 215A, and 219. Four of these services operate on a half hourly basis and serve the city centre and one service operates on an hourly basis. This equates to nine departures an hour and a combined frequency of approximately 7 minutes, which is high frequency. It should also be noted that Skehard Road has been confirmed as a Bus Connects Sustainable Transport Corridor (STC-J Mahon to City) which will bring further transport improvements. Furthermore, the Applicant highlights that the site is in walking distance (400m) of a proposed Light Rail Transit station.
- 7.3.12. On the basis of the proximity and accessibility criteria analysed above, the site has access to transport provision that would meet an accessible designation, and I consider that the site has further attributes that would indicate that increased density beyond the 40dph-80dph set out in the guidelines would be appropriate. In addition to the public transport services near the site outlined above I have also given consideration to the fact that public transport improvements would come forward as part of the BusConnects programme. Additionally, consideration must be given to the fact that the site is located immediately adjacent to a Neighbourhood Centre which provides shops and services that would support the development.
- 7.3.13. The originally proposed density of 143uph, and the density secured by the imposition of Condition 2 (as recommended by the Planning Authority) at 114uph, would be beyond the upper range set out in the CDP and significantly above the prevailing densities in the area. In my opinion it is unreasonable to expect future development to align rigidly with the prevailing density in the area which is very low and would not represent the efficient and sustainable use of housing land and it is my view that the proposed density for the appeal site as originally submitted at 143 uph would be acceptable in principle, whilst the 114uph secured by the amending condition

represents a more balanced approach to the uplift in density and would be more appropriate when considering the character and scale of the area.

7.3.14. It is stated in the grounds of appeal that that both density figures would materially contravene the CDP. In my view, the CDP gives targets as opposed to fixed limits and I agree with the Applicant that consideration has to be given to the provisions of the Compact Settlement Guidelines. However, taking a precautionary approach on the matter of Material Contravention, the Board are required to have regard to Section 37(2)(a) of the Planning and Development Act 2000 (as amended) which states:

37(2)(a) - Subject to paragraph (b), the Board may in determining an appeal under this section decide to grant a permission even if the proposed development contravenes materially the development plan relating to the area of the planning authority to whose decision the appeal relates.

7.3.15. In this instance, section 37(2)(b) and its subsequent requirements (i-iv) would not apply as the Planning Authority did not refuse planning permission. In these circumstances the Board should not consider itself precluded from granting planning permission. Having regard to Section 37(2)(a) of the Planning and Development Act 2000 (as amended), I am of the view that the density would be entirely acceptable. It would comply with Government policy seeking to increase densities in appropriate locations and would deliver compact urban growth. It is my opinion that the proposed development in this location would be in accordance with the density standards contained in the relevant Section 28 Guidelines (Compact Settlement Guidelines), and in my view, the proposed density (both originally proposed and amended by condition) would not be excessive for the site based on access to public transport and other neighbouring services, subject to consideration of design, height, and massing. On this basis, certain criteria and safeguards must be met to ensure a high standard of design and I address these issues in my assessment below, in addition to consideration of the First Party appeal against Conditions 2 and 3.

Design, Height, and Massing

7.3.16. It is the position of the Appellants that the height/scale/massing of the proposed development would be excessive and that the design would not be in keeping with the established pattern of development and character of the area. It is argued that the development would be incongruous and would visually dominate dwellings in the

immediate vicinity. It is stated in the grounds of appeal that even with the amendments secured by condition, the development would still not respond positively to its immediate environment.

- 7.3.17. The Planning Authority imposed Condition 2 which seeks to omit Level 2 of the apartment blocks, resulting in a scheme no higher than four storeys with a reduction of 18 residential units. As well as being considered necessary for density reasons, the Planning Authority imposed the condition on the basis that the massing, form and scale of the proposed apartment blocks at four/five storeys in height would be considered an overdevelopment of the site and out of character with the existing prevailing building height for the area. The Planning Authority considered that removal of Level 2 would reduce the overall height of the development and allow for a better relationship between the surrounding two storey dwellings that are proposed on the southern and the eastern side of the development site as well as improving the relationship with the existing surrounding two storey dwellings and assimilate better into the existing built environment.
- 7.3.18. The Applicant argues that the development would be in line with the CDP height targets for Ballintemple and Blackrock where the target range is between three and five storeys. It is stated that height is concentrated towards the centre of the Skehard Road frontage, where the five storey massing has a suitable relationship to the wide road and provides an appropriate sense of enclosure, with a suitable transition of heights to the south, east and west. The Applicant considers that the proposed height does not generate any adverse residential amenity impacts. On this basis, the Appellant considers that Condition 2 is unnecessary and should be removed.
- 7.3.19. National policy, including specific planning policy requirement (SPPR) 1 of the Building Heights Guidelines, describe the need to move away from blanket height restrictions and that increased building heights at accessible and serviced locations within the metropolitan area should be supported. Increasing prevailing building heights therefore has a critical role to play in addressing the delivery of more compact growth in our urban areas, particularly our cities and large towns through enhancing both the scale and density of development. Increased building height is therefore a significant component in making optimal use of the capacity of sites in urban locations where transport, employment, services or retail development can achieve a requisite level of intensity for sustainability.

- 7.3.20. Section 3 of the Building Height Guidelines deals with the assessment of individual applications and appeals and states that there is a presumption in favour of buildings of increased height in city cores and urban locations with good public transport accessibility. It sets out broad principles and criteria for the assessment of proposals for buildings taller than prevailing heights, taking account of the wider strategic and national policy parameters.
- 7.3.21. In my opinion the site clearly has capacity for additional height over and above prevailing heights in the area. As with density, it is not realistic to be overly restrictive on the matter of height on such an accessible and well positioned site. The acceptability of five storeys is very finely balanced in my opinion, however, on balance, I consider that the five-storey element would represent an abrupt transition in scale, particularly when viewed from Skehard Road, notwithstanding the width of the road. On that basis I am in agreement with the Planning Authority with regard to the imposition of Condition 2, which would remove Level 2 of Blocks, 1, 2 and 3.
- 7.3.22. With the amendment secured as part of Condition 2, I am of the view that the transition in height and massing across the site, at all interfaces, would be appropriate in terms of residential amenity, visual amenity and townscape, and would allow the development to successfully integrate with the surrounding properties in addition to having a more balanced relationship with the proposed two storey terraced housing within the development itself.
- 7.3.23. In design terms I consider the development to be designed to a sufficiently high standard, with engaging facades, sufficient activity at ground floor street facing frontages and appropriate setbacks, with an appropriate hierarchy of form and well articulated facades. I consider the materials to be acceptable in principle, subject to final approval secured by condition. In summary, I consider the height, scale, massing and detailed design to be acceptable, subject to the imposition of Condition 2 as recommended by the Planning Authority.

7.4. Quality of Accommodation

- 7.4.1. Concerns are raised in the grounds of appeal that the quality of accommodation would be sub-standard as a result of the deficient size and quality of the open spaces and their location directly adjoining windows and balconies of the residential units, the risk

of conflict with car movements and the poor levels of daylight and sunlight. It is argued that the housing mix is not compliant with policy.

Housing Mix

7.4.2. Objective 11.2 of the CDP relates to dwelling mix and requires developments comprising more than 50 dwellings to comply with the target dwelling size mix specified in Tables 11.3-11.9, apart from in exceptional circumstances. The Objective notes that flexibility will be provided where a clear justification can be provided on the basis of market evidence that demand/need for a specific dwelling size is lower than the target. The table below sets out the CDP requirements against the scheme provision as originally proposed and following the implementation of Condition 2:

	Min	Max	Target	Proposed	Amended (Condition)
Studios	0%	15%	10%	0%	0%
1 Bedroom	15%	25%	20%	29%	28%
2 Bedroom	25%	40%	34%	63%	62%
3 Bedroom	18%	38%	28%	8%	10%
4 Bedroom	5%	15%	8%	0%	0%

7.4.3. SPPR1 of the Apartment Guidelines states that housing developments may include up to 50% one-bedroom or studio type units (with no more than 20-25% of the total proposed development as studios) and there shall be no minimum requirement for apartments with three or more bedrooms. The Guidelines note that statutory development plans may specify a mix for apartment and other housing developments, but only further to an evidence-based Housing Need and Demand Assessment (HNDA), that has been agreed on an area, county, city or metropolitan area basis and incorporated into the relevant development plan.

7.4.4. The proposed housing mix would comply with the requirements of SPPR1. It is noted that the mix would not comply with objective 11.2 of the CDP however the Applicant has stated that the specific circumstances of the development make it acceptable. The Applicant states that the subject application has been prepared in close consultation

with Tuath Housing, for whose intended use this application has being prepared. Tuath Housing consider that the urgent need for cost rental units constitutes exceptional circumstances and that flexibility in applying the housing mix targets is appropriate.

- 7.4.5. I note that the scheme proposes two bedroom/three person units. With the 18-unit reduction secured by Condition 2, this would result in 12% of the units being two bedroom/three person. Whilst not set out in an SPPR, the Apartment Guidelines allow for a maximum of 10% two bedroom/three person, unless the scheme is for social housing. Whilst the proposal is not for social housing, the scheme has been designed to meet the cost rental needs of Tuath Housing, whose requirement is mainly for one and two bedroom units. Information provided states that funding arrangements for cost rental properties is such that rent is dictated by a maximum of 35% of an applicant's income and as such one and two bedroom properties are more viable under the scheme. The proposed housing mix has been developed in conjunction with Tuath based on their needs. The Applicant also references Cork City Council's housing waiting list, whereby 81% of households are one and two bedroom.
- 7.4.6. Full justification for the proposed housing mix was provided at Further Information stage and was considered to be acceptable by the Planning Authority. Having regard to the information on file and having reviewed the justification provided, I am satisfied that the proposed housing mix would be acceptable and would meet a demonstrated need without harming the residential amenity or character of the area. Should the Board disagree with my conclusion regarding two bedroom/three person units then I am satisfied that this matter could be addressed by condition.

Housing Quality

- 7.4.7. SPPR 3 of the Apartment Guidelines sets out minimum apartment floor areas. It is also a requirement that the majority of all apartments in any proposed scheme of 10 or more apartments exceed the minimum floor area standard by a minimum of 10%.
- 7.4.8. SPPR4 of the Guidelines requires a minimum of 50% of units to be dual aspect in suburban or intermediate locations and SPPR5 requires ground floor apartments to have a minimum floor to ceiling height of 2.7 metres. The Applicant has submitted a Housing Quality Assessment that demonstrates compliance with the space standards set out in the guidelines. I also note that the number of dual aspect units would be well

in excess 50% and that no north facing single aspect units would be provided. More than 60% of units would exceed the minimum space standards by at least 10%.

Open Space

- 7.4.9. Appendix 1 of the Apartment Guidelines sets out the communal amenity space requirements for apartment development, based on the number of bedrooms per unit. For the proposed development, the communal amenity space requirement would amount to 454sqm.
- 7.4.10. Section 11.112 of the Cork City CPD relates to public open space in housing development and sets a requirement of 10% of the area to be made available as public open space. The requirement for the proposed development would be 630sqm.
- 7.4.11. The development proposes several areas of open space including a large open courtyard between Blocks 1 and 2, a pocket park to the rear of Block 3, and a larger open space between Block 1 and the southern terrace. Cumulatively, these spaces would provide 1,049sqm against a requirement of 1,084sqm. Whilst this would be an approximate shortfall of 35sqm, this would be very minor in context and the benefit of the provision of public open space would be limited given that there are no routes through the site. I am therefore satisfied that the provision is acceptable. A range of spaces are being provided, and the final design of these spaces could be appropriately secured by condition.
- 7.4.12. Further concerns raised in the appeal are that the open spaces would be poor quality as a result of their location directly adjoining windows and balconies of the residential units, that the open spaces would have poor levels of daylight/sunlight, thereby affecting their usability and that there would be conflict between these spaces and vehicular movements. Communal courtyard gardens and amenity spaces in apartment developments are frequently overlooked by the apartments themselves, this is a common design feature of apartments, and I do not have any amenity concerns or concerns that it would impact the quality or enjoyment of these spaces. The daylight and sunlight information submitted by the Applicant demonstrates that the communal amenity space/public open spaces would all achieve the minimum standards as set out in the BRE guidance, I am therefore satisfied that they would be well lit.
- 7.4.13. On the matter of pedestrian vehicular conflict, due to the layout of the development and location of the amenity spaces, I do not share the concerns of the Appellants. This

would be a low speed environment which would be emphasised by the use of a shared surface, and the amenity spaces are located such that movement between them, at least between the two central spaces, could be undertaken without crossing the pathway of any vehicles.

Location of Bin Store

- 7.4.14. Concerns regarding the location of the bin store were fully addressed at Further Information Stage and I am satisfied that the bin stores are now appropriately located rather than concentrated in a single area. Final details should be secured by condition.

7.5. Residential Amenity

- 7.5.1. The grounds of appeal raise various residential amenity concerns including the loss of privacy/overlooking, loss of light/overshadowing, and that the development would result in noise, air and traffic pollution. Specific concerns are raised that the development (due to density, scale, height, and bulk) would seriously injure the residential amenities and property values of residential properties in the adjoining Clover Hill residential estate. Observations on the appeal consider that the drainage system is already overloaded, and that consideration should be given to construction hours and how construction would be carried out.

Overlooking and Overbearance

- 7.5.2. The Compact Settlement Guidelines state that when considering a planning application for residential development, a separation distance of at least 16 metres between opposing windows serving habitable rooms at the rear or side of houses, duplex units and apartment units, above ground floor level shall be maintained. Separation distances below 16 metres may be considered acceptable in circumstances where there are no opposing windows serving habitable rooms and where suitable privacy measures have been designed into the scheme to prevent undue overlooking of habitable rooms and private amenity spaces.
- 7.5.3. The nearest dwellings to the west are located in excess of 60 metres away and as such I have no overlooking or overbearing concerns with regards to these properties. The minimum 16 metres separation distance is achieved and exceeded for the adjacent residential properties to the north on Skehard Road where the separation distance is between c. 28 metres and 33 metres. In my opinion, this separation

distance is sufficient to ensure that there would be no overlooking and no significant sense of the development being overbearing.

7.5.4. To the east on the Clover Hill Estate, the separation distance would generally be in excess of 22 metres. The proposed development would generally be two storeys along this eastern edge, although there is a three storey element towards the north but given the separation distances, I do not consider this to be overbearing and there would be no overlooking issues. I note that the two storey duplex house fronting Skehard Road and lying immediately adjacent to No. 54 Clover Hill Estate would only have a separation distance of 12.7 metres. Whilst this is a flank elevation that does not offer any opportunities for overlooking, I agree that its proximity to the boundary and three storey height to ridge level is such that it would be overbearing on the garden of No. 54. On that basis, I agree that Condition 3 should be imposed, as recommended by the Planning Authority.

7.5.5. A terrace of seven two storey dwellings is proposed along the southern edge of the development. These dwellings would share a boundary with the dwellings located at Nos. 43-47 Clover Hill Estate and separation distances would range from 15.1 metres to 17.8 metres. Whilst there would be two instances of the separation distance falling below the 16 metres recommended in the Compact Settlement Guidelines, I consider that this would be acceptable in this instance as there are no opposing windows serving habitable rooms and the new homes have been designed to prevent overlooking as the first floor windows in the proposed dwellings serve circulations spaces and could be obscure glazed, preventing overlooking of the adjacent dwellings and their amenity spaces. In terms of overbearance, I consider the scale of the dwellings on the southern boundary to be acceptable in terms of their relationship to the Clover Hill Estate and I do not consider that they would be overbearing.

Daylight and Sunlight

7.5.6. Impacts on daylight and sunlight have been raised as part of the appeal. A daylight and sunlight report has been submitted that assesses the scheme based on the BRE guidelines (Sunlight and Daylight Access Analysis June 2023). This has been supplemented by an additional report (Addendum Shadow Study and Sunlight Access Analysis) submitted as part of the Further Information request in order to assess the

impacts the development may have on adjacent properties to the, north, east and south, including private amenity space.

- 7.5.7. The BRE Guidance provides a technical reference for the assessment of amenity relating to daylight, sunlight, and overshadowing. The guidance within it is not mandatory and the advice within the guide should not be seen as an instrument of planning policy. The guidance notes that within urban environments, including historic city centres and areas with modern high-rise buildings, a higher degree of obstruction may be unavoidable if new developments are to match the height and proportions of existing buildings. Although the BRE gives numerical guidelines, these should be interpreted flexibly, since natural lighting is only one of many factors in site layout design.
- 7.5.8. The BRE sets out the detailed daylight tests. This includes the Vertical Sky Component test (VSC) which considers the potential for daylight by calculating the angle of vertical sky at the centre of each of the windows serving the buildings which look towards the site. The target figure for VSC recommended by the BRE is 27% which is considered to be a good level of daylight and the level recommended for habitable rooms. The BRE have determined that the daylight can be reduced to 0.8 times its former value (or by 20%) before the loss is noticeable.
- 7.5.9. The Applicant's assessment includes the adjacent residential properties to the north (Nos. 45-56 Skehard Road and No. 1 Clontarf Estate), the east (Nos. 54-49 Clover Hill Estate) and the south (Nos. 42-48 Clover Hill Estate). In terms of the properties along Skehard Road and the Clontarf Estate, at 13 of the 14 properties, VSC levels in excess of 30% would be retained, which is well in excess of the 27% recommended by the BRE. One property (No 48A Skehard Road) would retain a VSC level of 26.43% which is only very marginally below the 27% set by the BRE. In any event, the retained VSC level at this property would be more than 0.8 times the former value indicating that the change would be imperceptible and would comply with the BRE guidance.
- 7.5.10. At Nos 54-49 Clover Hill Estate, all windows assessed would retain VSC levels in excess of 30% which again is well in excess of the 27% recommended by the BRE and indicates that the properties would be well lit. These properties would remain compliant with the BRE guidance with the development in place.

7.5.11. At Nos 42-48 Clover Hill Estate, five of the properties would have windows that all retain at least 27% VSC. Two properties (Nos. 44 and 45), would have windows where VSC would be reduced below 27%. At No. 44 one window would see VSC reduced from 25.23% to 22.75%. It should be noted that VSC at this window was already below 27% and the proposed reduction would be c.10%, meaning that the window retains at least 0.8 times its former value (retained at 0.9) and as such the change would not be noticeable and the property would remain compliant with the BRE guidance. At No. 45 one window would see VSC reduced from 29.09% to 25.99%. Firstly, it is important to note that the reduction below 27% is not significant. Secondly, the proposed reduction would be 11%, meaning that the window retains 0.89 times its former value. On this basis the change would not be noticeable and the window would remain full compliant with the BRE guidance.

7.5.12. In terms of sunlight, the BRE states that to assess the loss of sunlight to an existing building, it is suggested that all main living rooms of dwellings, and conservatories, should be checked if they have a window facing within 90° of due south. Kitchens and bedrooms are less important, although care should be taken not to block too much sun. The BRE recommends a different metric to assess sunlight impacts, known as Annual Probable Sunlight Hours (APSH), which means means the total number of hours in the year that the sun is expected to shine on unobstructed ground. The sunlight reaching a window is quantified as a percentage of this unobstructed annual total. If a room can receive more than one quarter of annual probable sunlight hours (APSH), including at least 5% of APSH in the winter months between 21 September and 21 March, then it should still receive enough sunlight. Additionally, if the overall annual loss of APSH is 4% or less, the loss of sunlight is small. If the available sunlight hours are both less than the amount above and less than 0.80 times their former value, either over the whole year or just in the winter months (21 September to 21 March), and the overall annual loss is greater than 4% of APSH, then the occupants of the existing building will notice the loss of sunlight; the room may appear colder and less cheerful and pleasant.

7.5.13. The Applicant has undertaken a sunlight assessment for properties to the north, east and south of the development, including Nos. 45-56 Skehard Road, No. 51 Clontarf Estate, and Nos. 42-54 Clover Hill Estate. The assessment submitted by the Applicant demonstrates that the proposed development would have no significant sunlight

impacts on any windows of adjacent residential properties that face within 90° of due south, with all of these windows continuing to receive more than 25% Annual Probable Sunlight Hours, including at least 5% during the winter months.

7.5.14. In terms of amenity spaces, I acknowledge that there would likely be some additional overshadowing of the rear gardens of the dwellings to the east of the site, particularly in the later afternoons/early evenings. The BRE recommends that in order to appear adequately sunlit throughout the year, at least half of a garden or amenity area should receive at least two hours of sunlight on 21st March. If as a result of new development an existing garden or amenity area does not meet the above, and the area that can receive two hours of sun on 21st March is less than 0.80 times its former value, then the loss of sunlight is likely to be noticeable.

7.5.15. On this matter the Applicant has undertaken an assessment of the rear gardens of Nos. 42-54 Clover Hill Estate that adjoin the development site on its eastern and southern boundaries. The assessment reports that all of the rear gardens/amenity spaces would continue to receive at least two hours of sun on the 21st March. Indeed, all of the gardens would retain 100% of the existing value with the exception of No. 50 Clover Hill Estate which would see a 0.55% reduction which is extremely minor, imperceptible and would result in retention of 99% of the former value.

Noise, Air, Traffic Pollution, Drainage.

7.5.16. Disturbance can occur during construction, particularly with regards to noise, dust and vehicular movements. In many respects, some level of disturbance is inevitable if sites are to come forward and be developed. However, I am satisfied that these temporary issues could be adequately addressed and managed by way of a Construction Environmental Management Plan which could be secured by way of a condition, should the Board be minded to grant permission. Once operational, I do not consider that the development would be likely to result in excessive noise impacts on surrounding dwellings beyond that typically expected from domestic/residential settings, and appropriate conditions could be imposed regarding noise from plant if required.

7.5.17. In terms of drainage, previous concerns raised by the Council's Drainage Section were fully resolved by the Further Information and Clarification of Further Information. A range of SUDs measures are proposed and greenfield run off rates would be achieved.

Subject to standard conditions, I do not consider that there would be any significant impact.

Property Values

7.5.18. It is stated in the appeal that the proposed development would lead to a depreciation in the value of property in the vicinity. Following on from the assessment above, including the suggested conditions, sufficient substantive and objective evidence has not been provided to support claims that the proposed development would be likely to result in a depreciation of property values in the vicinity. I am therefore 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 property in the vicinity.

7.5.19. Transport

7.5.20. Transport related matters raised in the third party appeal include that the development would present a traffic, access and road safety issue. It is argued that the proposed level of car parking is inadequate and may result in parking on public roads in the vicinity and that no sustainable travel plan was prepared despite being requested by the Council. The grounds of appeal consider that additional traffic from the development would compromise road safety and lead to increased disruption and accidents.

Car Parking

7.5.21. The proposed development would provide 24 car parking spaces, equating to a ratio of 0.26 spaces per dwelling. The Compact Settlement Guidelines state that the quantum of car parking in new developments should be minimised in order to manage travel demand and to ensure that vehicular movement does not impede active modes of travel or have undue prominence within the public realm. In order to meet the targets set out in the National Sustainable Mobility Policy 2022 and in the Climate Action Plan 2023 for reduced private car travel it will be necessary to apply a graduated approach to the management of car parking within new residential development. The approach should take account of proximity to urban centres and sustainable transport options, in order to promote more sustainable travel choices. Car parking ratios should be reduced at all urban locations, and should be minimised, substantially reduced or wholly eliminated at locations that have good access to urban services and to public transport, as secured under SPPR 3.

7.5.22. I am satisfied that the provision of car parking significantly reduced below the maximum development plan standard would be acceptable given the high frequency public transport proximate to the development, in addition to the presence of shops and services adjacent to the site. In many respects this highly accessible site is ideally positioned for parking levels to be reduced further. Furthermore, subject to the implementation of a Car Parking Management Strategy in addition to a Mobility Management Plan and a Travel Plan, all of which could be secured by condition, I am satisfied that there would be sufficient car parking to serve the proposed development.

Traffic

7.5.23. At the outset I would note that no Transport/Traffic Impact Assessment was submitted with the application or requested by the Planning Authority or the relevant internal section. Section 11.14 - Statements to Support Development Proposals of the Cork City Development Plan states that development proposals should be accompanied by relevant specialist statements that address a particular issue or concern and demonstrate how these are addressed, overcome or mitigated as part of the development proposal. Section 11.19 relates to Traffic and Transport Assessments and states that in accordance with national guidelines, development proposals should account for sustainable transportation requirements at the earliest stages of development design. Traffic and Transport Assessments may be requested by Cork City Council on development proposals where it is considered that there may be an excessive impact on the road or transport network. Any development proposal which would directly access or indirectly cause some impact on the national road network must be accompanied by a TTA.

7.5.24. The thresholds which determine if a TTA is required are outlined in the Department of Transport's 'Traffic Management Guidelines' and the NRA 'Traffic and Transport Assessment Guidelines' 2014. Whilst ordinarily I would expect to see a Transport Assessment with an application of this nature, I note that the proposal is below the threshold for transport assessments (>200 dwellings) set out in the 2014 Guidelines. Whilst a lower threshold is stated for developments where national roads are affected, the proposal would still be below the lower threshold (>100 dwellings) and the proposal does not affect a national road. In this regard, there is no statutory requirement to carry out a Transport Impact Assessment or a Traffic and Transport Assessment and the Planning Authority, including the Urban Roads and Street Design Section and

Traffic Regulation and Safety Section have assessed the proposal and have not requested one.

7.5.25. In my opinion, having regard to the limited parking provided on site, the availability of public transport on Skehard Road, and the location of the development immediately adjacent to a neighbourhood centre, trip generation, in the context of Skehard Road, would be limited and I do not anticipate that there would be any significant impact on the operation of the road network. I also note that traffic and transport was not raised by the Board on the previous proposal for this site for a mixed-use retail and residential development which included 85 parking spaces and arguably a much higher potential trip burden than the proposed development. In any event, having regard to the scheme submitted, I am of the view that there would be no significant traffic impacts. I further note that the requirements of the NTA with regards to setbacks for BusConnects have been fully complied with and the recommendation from NTA for the provision of left in/left out access/egress can be secured by condition.

7.6. Other Matters

7.6.1. The grounds of appeal argue that it was inappropriate of the Planning Authority to use of Article 33 to give the Applicant the opportunity to make scheme amendments, and that permission should have been refused rather than seeking Further Information for a completely new design and layout. It is further argued that permission should have been refused when the Further Information did not result in conformity with the density standards, rather than the imposition of a condition requiring agreement on a new design with 18 units removed, which still did not comply with the development plan or address the various issues raised.

7.6.2. I would disagree with the Appellant that the information sought at Further information stage sought a completely new design and layout. It seems to me that the purpose of the Planning Authority's request was that the Applicant address concerns relating to density, housing mix and height in addition to providing additional information with regards to drainage, transport and environment. I note that Planning Authority's commonly use Article 33 requests for additional information as a mechanism to seek revised plans. In any event, the requested revisions were not undertaken by the Applicant and instead the Planning Authority opted to impose Condition 2 and 3.

7.6.3. Further concerns are raised in the appeal regarding the use of conditions to amend the development. Again, the use of amending conditions is common although I note that the Development Management Guidelines (Section 7.7) states that a condition that radically alters the nature of the development to which the application relates will usually be unacceptable, such as a condition requiring the omission of a use which forms an essential part of a proposed development, or a complete re-design of a development. In my opinion, the principle of the conditions imposed by the Planning Authority are acceptable as they do not seek a redesign of the development, but rather amendments to two distinct elements.

8.0 AA Screening

8.1.1. I have considered the appeal in light of the requirements S177U of the Planning and Development Act 2000 as amended. The subject site is located on Skehard Road, in the Blackrock area of Cork City. The site is approximately 620 metres from the Cork Harbour SPA (Site Code 004030) which is to the south of the site. The Great Island Channel SAC is located 5km to the east.

8.1.2. The proposal is for new homes on a serviced site within a built-up urban area. There are no direct hydrological connections from the site to any European site and there are no watercourses on site or in the immediate vicinity. Having considered the nature, scale, and location of the project, I am satisfied that it can be eliminated from further assessment because there is no conceivable risk to any European Site. The reason for this conclusion is as follows:

- The nature of the proposed development and the location of the site within a serviced urban area.
- The distance of the development from the nearest European Site, the lack of any direct hydrological connections, and the use of the municipal water/sewage system.
- The screening determination of the Planning Authority, who concluded that Appropriate Assessment is not required.

8.1.3. I conclude that on the basis of objective information, that the proposed development would not have a likely significant effect on any European Site either alone or in

combination with other plans or projects. Likely significant effects are excluded and therefore Appropriate Assessment (stage 2) (under Section 177V of the Planning and Development Act 2000) is not required.

9.0 Recommendation

9.1. I recommend that the Board grant planning permission for the reasons and considerations set out below, subject to conditions.

10.0 Reasons and Considerations

10.1. Having regard to the provisions of the Cork City Development Plan 2022-2028, including the ZO1 Sustainable Residential Neighbourhood zoning objective for the area and the relevant policies and objectives of the development plan in addition to the Building Height Guidelines, Apartment Guidelines, and Compact Settlement Guidelines, and having regard to the scale, form, design, and layout of the proposed development, and to the pattern of development in the area, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities or character of the area or of property in the vicinity, would have no significant transport or traffic impacts, and would overall promote the efficient development of housing on an accessible and sustainable site, would not seriously injure the residential amenity of dwellings in the area, would not be prejudicial to public health, and would comply with the policies and provisions of the development plan, and 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, as amended by the further plans and particulars received by the planning authority on the 8th November 2023 and the 21st December 2023, 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 interests of clarity.

2. The proposed level 02, containing 18 apartments, shall be omitted from the proposed development and prior to the commencement of development, revised plans and elevations showing this omission shall be submitted to the Planning Authority for full written agreement.

Reason: In the interests of visual and residential amenity.

3. The proposed two storey duplex to the east of Block 3 shall be reduced to one and a half storey in order to match the existing ridge height of the adjacent dwelling. Prior to the commencement of development, revised plans and elevations showing this omission shall be submitted to the Planning Authority for full written agreement.

Reason: In the interests of visual and residential amenity.

4. 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 matter in dispute shall be referred to An Bord Pleanála for determination.

Reason: In the interest of visual amenity.

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

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

- (i) The species, variety, number, size and locations of all proposed trees and shrubs, which shall comprise predominantly native species such as mountain ash, birch, willow, sycamore, pine, oak, hawthorn, holly, hazel, beech or alder, and which shall not include prunus species.

(iv) Details of screen planting, which shall not include cupressocyparis x leylandii.

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

(vi) Hard landscaping works, specifying surfacing materials, furniture, play equipment, and finished levels.

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

(c) A timescale for implementation, including details of phasing

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.

6. Prior to commencement of development, a Resource Waste Management Plan (RWMP) as set out in the EPA's Best Practice Guidelines for the Preparation of Resource and Waste Management Plans for Construction and Demolition Projects (2021) shall be prepared and submitted to the planning authority for written agreement. The RWMP shall include specific proposals as to how the RWMP will be measured and monitored for effectiveness. All records (including for waste and all resources) pursuant to the agreed RWMP shall be made available for inspection at the site office at all times.

Reason: In the interest of reducing waste and encouraging recycling.

7. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including:

- (a) Location of the site and materials compound 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 the course of 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 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) Off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil.
- (l) Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains.
- (m) A record of daily checks that the works are being undertaken in accordance with the Construction Management Plan shall be available for inspection by the planning authority.

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

8. Proposals for an estate/street name, house/apartment numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all estate and street signs, and house/apartment 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 urban legibility and to ensure the use of locally appropriate placenames for new residential areas.

9. The communal open spaces, including hard and soft landscaping, car parking areas and access ways, communal refuse/bin storage, and all areas not intended to be taken in charge by the local authority, shall be maintained by a legally constituted management company. Details of the management company contract, and drawings/particulars describing the parts of the development for which the company would have responsibility, shall be submitted to, and agreed in writing with the planning authority before any of the residential units are made available for occupation.

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

10. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development. All existing over ground cables shall be relocated underground as part of the site development works.

Reason: In the interests of visual amenity.

11. Prior to the occupation of the development, a Mobility Management Plan (MMP)/Travel Plan 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 and walking by residents. 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.

12. 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 and for the ongoing operation of these facilities for each apartment shall be submitted to, and agreed in writing with, the planning authority not later than six months from the date of commencement of the development. Thereafter, the waste shall be managed in accordance with the agreed plan.

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

13. Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Saturdays inclusive, and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where proposals have been submitted and agreed in writing with the Planning Authority.

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

14. No additional development shall take place above roof parapet level, including lift motor enclosures, air-handling equipment, storage tanks, ducts or other external plant, telecommunication aerials, antennas or equipment, unless authorised by a further grant of planning permission.

Reason: To protect the visual amenities of the area.

15. Prior to the commencement of development, the developer shall enter into a Connection Agreement with Uisce Éireann (Irish Water) to provide for a service connection to the public water supply and wastewater collection network. All works shall comply with Uisce Éireann's Connection and Developer Services Standard Details and Code of Practice.

Reason: In the interest of public health and to ensure adequate water/wastewater facilities.

16. Public lighting shall be provided in accordance with a scheme which shall be submitted to and agreed in writing with the Planning Authority prior to the commencement of development. The scheme shall include lighting along pedestrian routes through open spaces and shall take account of trees and landscaping. Such lighting shall be provided prior to the making available for occupation of any residential unit.

Reason: In the interest of amenity and public safety.

17. The total parking supply on the site shall not exceed 24 spaces. The following shall apply:

- (a) The provision of a maximum of 24 car parking spaces inclusive of 2 disabled parking spaces for the full development.
- (b) The provision of a minimum of 171 high quality covered cycling parking facilities
- (c) The provision of 4 EV car charging spaces and the rest ducted for future EV car use.
- (d) The applicant shall submit a Car Park Management Plan and details of car parking design, layout and management to the planning authority for agreement in writing prior to the commencement of development.

Reason: In the interest of sustainable transport and safety.

18. Prior to commencement of development a Stage 1/2 Road Safety Audit shall be submitted. All findings of the Road Safety Audit shall be closed out, signed off and incorporated into the development. A Stage 3/4 Road Safety Audit shall also be undertaken, closed out, signed off and acted upon. All costs associated with this condition shall be borne by the Applicant.

Reason: In the interests of traffic safety.

19. Prior to commencement of development, the Applicant shall agree the details and the extent of all road markings and signage requirements on R852 Skehard

Road with the Planning Authority. All costs associated with this condition to be borne by the Applicant.

Reason: In the interests of traffic safety.

20. A detailed construction traffic management plan shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The plan shall include details of arrangements for routes for construction traffic, parking during the construction phase, the location of the compound for storage of plant and machinery and the location for storage of deliveries to the site.

Reason: In the interest of sustainable transport and safety.

21. All drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the relevant Section of the Council for such works and services. Prior to the commencement of development, the developer shall submit all drainage details to the Planning Authority for written agreement.

Reason: In the interest of public health and surface water management.

22. Prior to the commencement of the development as permitted:

(a) The applicant or any person with an interest in the land shall enter into an agreement with the planning authority (such agreement must specify the number and location of each house or duplex unit), pursuant to Section 47 of the Planning and Development Act 2000, that restricts all relevant residential 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.

(b) An agreement pursuant to Section 47 shall be applicable for the period of duration of the planning permission, except where after not less than two years from the date of completion of each specified housing unit, it is demonstrated to the satisfaction of the planning authority that it has not been possible to transact each of the residential units for use by

individual purchasers and/or to those eligible for the occupation of social and/or affordable housing, including cost rental housing.

- (c) The determination of the planning authority as required in (b) shall be subject to receipt by the planning and housing authority of satisfactory documentary evidence from the applicant or any person with an interest in the land regarding the sales and marketing of the specified housing units, in which case the planning authority shall confirm in writing to the applicant or any person with an interest in the land that the Section 47 agreement has been terminated and that the requirement of this planning condition has been discharged in respect of each specified housing unit.

Reason: To restrict new housing development to use by persons of a particular class or description in order to ensure an adequate choice and supply of housing, including affordable housing, in the common good.

23. 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 transfer of a percentage of the land, to be agreed with the planning authority, in accordance with the requirements of section 94(4) and section 96(2) and 96(3)(a), (Part V) of the Planning and Development Act 2000, as amended, and/or the provision of housing on lands in accordance with the requirements of section 94(4) and section 96(2) and 96(3) (b), (Part V) of the Planning and Development Act 2000, as amended], unless an exemption certificate has been granted under section 97 of the Act, as amended. Where such an agreement cannot be reached between the parties, the matter in dispute (other than a matter to which section 96(7) applies) shall 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 for the area.

24. 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.

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.

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.

Terence McLellan
Planning Inspector

7th April 2025

Form 1

EIA Pre-Screening

An Bord Pleanála	ABP-3199092-24		
Case Reference			
Proposed Development Summary	<p>Permission for the demolition of an existing dwelling and associated shed and the construction of a 90 no. unit residential development and all ancillary site development works at 'Villa Maria' and adjacent lands, Skehard Road, Cork, T12 P2RA. The proposed development consists of 26 no. 1 bedroom units and 48 no. 2 bedroom units in 3 no. 4-5 storey apartment buildings. In addition, the proposal includes 12 no. 2-storey townhouses, comprising 5 no. 2 bedroom units and 7 no. 3 bedroom units and 4 no. 2 bedroom duplex units. Access to the proposed development will be via an existing vehicular and pedestrian entrance off Skehard Road</p>		
Development Address	Villa Maria and adjacent lands, Skehard Road, 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	X	
	No		
2. Is the proposed development of a CLASS specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended)?			
Yes	X	Class 10 – Infrastructure Projects.	Proceed to Q3.
No			No further action required

3. Does the proposed development equal or exceed any relevant THRESHOLD set out in the relevant Class?			
Yes			EIA Mandatory EIAR required
No	X		Proceed to Q4
4. Is the proposed development below the relevant threshold for the Class of development [sub-threshold development]?			
Yes	X	Class 10 (b)(i) - threshold >500 dwellings.	Preliminary examination required (Form 2)

5. Has Schedule 7A information been submitted?		
No	X	Pre-screening determination conclusion remains as above (Q1 to Q4)
Yes		Screening Determination required

Inspector: _____ **Date:** _____

Form 2

EIA Preliminary Examination

<p>An Bord Pleanála Case Reference</p>	<p>ABP-319092-24</p>
<p>Proposed Development Summary</p>	<p>Permission for the demolition of an existing dwelling and associated shed and the construction of a 90 no. unit residential development and all ancillary site development works at 'Villa Maria' and adjacent lands, Skehard Road, Cork, T12 P2RA. The proposed development consists of 26 no. 1 bedroom units and 48 no. 2 bedroom units in 3 no. 4-5 storey apartment buildings. In addition, the proposal includes 12 no. 2-storey townhouses, comprising 5 no. 2 bedroom units and 7 no. 3 bedroom units and 4 no. 2 bedroom duplex units. Access to the proposed development will be via an existing vehicular and pedestrian entrance off Skehard Road</p>
<p>Development Address</p>	<p>Villa Maria and adjacent lands, Skehard Road, Cork</p>
<p>The Board carried out a preliminary examination [ref. Art. 109(2)(a), Planning and Development regulations 2001, as amended] of at least the nature, size or location of the proposed development, having regard to the criteria set out in Schedule 7 of the Regulations.</p> <p>This preliminary examination should be read with, and in the light of, the rest of the Inspector's Report attached herewith.</p>	
<p>Characteristics of proposed development (In particular, the size, design, cumulation with existing/proposed development, nature of demolition works, use of natural resources, production of waste, pollution and nuisance, risk of accidents/disasters and to human health).</p>	<p>The proposed development would provide residential development in a built up suburban area, but the increased height and scale are not considered to result in significant environmental effects. Demolition works would be small scale, related to the existing</p>

	<p>dwelling. Construction materials and activities would be typical for an urban residential development of this nature and scale.</p> <p>The use of fuels and materials would be typical for construction sites. Construction impacts would be local and temporary in nature, could be suitably managed through a Construction Environmental Management Plan.</p> <p>In terms of accidents, no significant risk is anticipated having regard to the nature and scale of the development. Any risk arising from demolition and construction will be localised and temporary in nature.</p> <p>No existing or permitted developments have been identified in the immediate vicinity that would give rise to significant cumulative environmental effects with the subject project.</p>
<p>Location of development</p> <p>(The environmental sensitivity of geographical areas likely to be affected by the development in particular existing and approved land use, abundance/capacity of natural resources, absorption capacity of natural environment e.g. wetland, coastal zones, nature reserves, European sites, densely populated areas, landscapes, sites of historic, cultural or archaeological significance).</p>	<p>The development would conform to the residential nature of the locality. There would be no significant impact on any protected areas, protected views, built or natural heritage or European Sites.</p>

<p>Types and characteristics of potential impacts (Likely significant effects on environmental parameters, magnitude and spatial extent, nature of impact, transboundary, intensity and complexity, duration, cumulative effects and opportunities for mitigation).</p>	<p>All development has the potential for some impacts/disturbance during the construction phase such as noise, vibration, dust, air quality and traffic. However, these impacts would be short term and temporary and can be appropriately managed and mitigated by way of conditions and the implementation of a detailed Construction Environmental Management Plan.</p> <p>Given the nature of the development and the site/surroundings, it would not have the potential to significantly affect other significant environmental sensitivities in the area. It is noted that the site is not designated for the protection of the landscape or natural heritage and is not within an Architectural Conservation Area.</p>
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Conclusion		
Likelihood of Significant Effects	Conclusion in respect of EIA	Yes or No
There is no real likelihood of significant effects on the environment.	EIA is not required.	

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Inspector:

Date:

DP/ADP: _____

Date: _____

(only where Schedule 7A information or EIAR required)

**AA Screening Determination
Test for likely significant effects**

Screening for Appropriate Assessment Test for likely significant effects				
Step 1: Description of the project and local site characteristics				
Brief description of project		Development of 90 apartments (amended to 72 by condition).		
Brief description of development site characteristics and potential impact mechanisms		Urban brownfield site, no watercourses on site, connected to municipal drainage network. No protected habitats on site. Existing habitats of low ecological value. Weak link to European sites via surface water drainage.		
Screening report		No		
Natura Impact Statement		No		
Relevant submissions		None.		
Step 2. Identification of relevant European sites using the Source-pathway-receptor model				
European Site (code)	Qualifying interests ¹ Link to conservation objectives (NPWS, date)	Distance from proposed development (km)	Ecological connections ²	Consider further in screening ³ Y/N
Cork Harbour SPA (Site Code 004030)	A004 Little Grebe Tachybaptus ruficollis A005 Great Crested Grebe Podiceps cristatus A017 Cormorant Phalacrocorax carbo A028 Grey Heron Ardea cinerea A048 Shelduck Tadorna tadorna	620 metres.	Indirect drainage network. via	Y.

	<p>A050 Wigeon <i>Anas penelope</i></p> <p>A052 Teal <i>Anas crecca</i></p> <p>A054 Pintail <i>Anas acuta</i></p> <p>A056 Shoveler <i>Anas clypeata</i></p> <p>A069 Red-breasted Merganser <i>Mergus serrator</i></p> <p>A130 Oystercatcher <i>Haematopus ostralegus</i></p> <p>A140 Golden Plover <i>Pluvialis apricaria</i></p> <p>A141 Grey Plover <i>Pluvialis squatarola</i></p> <p>A142 Lapwing <i>Vanellus vanellus</i></p> <p>A149 Dunlin <i>Calidris alpina alpina</i></p> <p>A156 Black-tailed Godwit <i>Limosa limosa</i></p> <p>A157 Bar-tailed Godwit <i>Limosa lapponica</i></p> <p>A160 Curlew <i>Numenius arquata</i></p> <p>A162 Redshank <i>Tringa totanus</i></p> <p>A179 Black-headed Gull <i>Chroicocephalus ridibundus</i></p> <p>A182 Common Gull <i>Larus canus</i></p>			
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	<p>A183 Lesser Black-backed Gull <i>Larus fuscus</i></p> <p>A193 Common Tern <i>Sterna hirundo</i></p> <p>A999 Wetlands</p> <p>Link to Conservation objectives: ConservationObjectives.rdl</p>			
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Step 3. Describe the likely effects of the project (if any, alone or in combination) on European Sites
AA Screening matrix

Site name Qualifying interests	Possibility of significant effects (alone) in view of the conservation objectives of the site*	
	Impacts	Effects
Site 1: Cork Harbour SPA (Site Code 004030).	Potential indirect impacts via surface water and drainage network.	Impacts on water quality, increased sedimentation, spillages, pollution.
	Likelihood of significant effects from proposed development (alone):N	
	If No, is there likelihood of significant effects occurring in combination with other plans or projects? No.	
	Possibility of significant effects (alone) in view of the conservation objectives of the site* No.	

Subject to standard construction management measures, impacts on surface water quality are not considered to present a threat to the conservation objectives of the Cork Harbour SPA.

Step 4 Conclude if the proposed development could result in likely significant effects on a European site

I conclude that the proposed development (alone) would not result in likely significant effects on the Cork Harbour SPA. The proposed development would have no likely significant effect in combination with other plans and projects on any European site(s). No further assessment is required for the project. No mitigation measures are required to come to these conclusions.