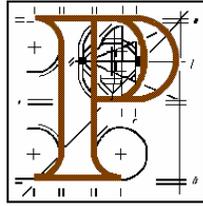

An Bord Pleanála



Inspector's Report

Ref.: PL53. 241620

Development: Demolish an existing derelict structure and construct a dwelling house and all associated site works.

Bellvue, Kilgarvan, Cobh, Co. Cork.

PLANNING APPLICATION

Planning Authority: Cobh Town Council

Planning Authority Ref.: 12/52016

Applicant: James & Aileen Walsh

Type of Application: Permission

Planning Authority Decision: Refusal

APPEAL

Type of Appeal: First Party v. Decision

Observers: Richard Steele

INSPECTOR: Robert Speer

Date of Site Inspection: 7th June, 2013

1.0 SITE LOCATION AND DESCRIPTION

1.1 The proposed development site is located in the townland of Kilgarvan, Co. Cork, within the built-up area of Cobh town, approximately 600m to the northeast of the town centre, in an area known locally as Bellvue which consists of a small private cul-de-sac of housing that terminates to the northeast of Bellvue Terrace. The topography of the surrounding area is characterised by a steep incline on travelling northwards inland from the harbour's edge with the subject site being elevated above those lands to the south along Harbour View / Harbour Row. The site itself has a stated site area of 0.0227 hectares, is generally triangular in shape, and consists of an unkempt residual 'wedge' of land occupied by a derelict shed-like structure which is almost entirely obscured from view by plant overgrowth. The site is generally aligned along a southwest-northeast axis and fronts directly onto the adjacent roadway to the immediate south / southeast. It is bounded to the north and west by mature hedgerow with the remaining site boundaries undefined at present.

2.0 DESCRIPTION OF PROPOSED DEVELOPMENT

2.1 The proposed development consists of the demolition of an existing derelict structure (floor area: 41.76m²) and its replacement with the construction of a two-storey detached dwelling house with a stated floor area of 101m² and an overall ridge height of 6.55m. The overall design of the proposed dwelling house is typically conventional and is based on a principle rectangular plan with an apex roof construction, although it also includes a side annex which incorporates a partially enclosed extended balcony area at first floor level with undercroft car parking below same. Access to the site will be obtained directly from the adjacent roadway to the immediate south whilst water and sewerage services are available from the public mains.

N.B. A certificate of exemption from the provisions of Part V in accordance with Section 97 of the Planning and Development Act, 2000, as amended, has accompanied the application.

3.0 RELEVANT PLANNING HISTORY

3.1 On Site:

PA Ref. No. 0852012. Application by James & Aileen Walsh for permission for a dwelling house and associated site works. This application was subsequently withdrawn.

3.2 On Adjacent Sites:

PA Ref. No. 0452018. Was granted on 7th September, 2004 permitting Richard Steele permission for the conversion of an existing bungalow to a dormer style bungalow at Marymount, Kilgarvan, Cobh, Co. Cork.

3.3 On Sites in the Immediate Vicinity:

PA Ref. No. 0952019 / ABP Ref. No. PL53. 235661. Was granted on appeal on 11th May, 2010 permitting Pat and Catherine O'Shea permission for the demolition of an existing

dormer bungalow and garage and the construction of a two-storey house with attached garage/utility room with balcony roof and ancillary site works at Carriglen, Bellevue, Cobh, Co. Cork.

N.B. In support of the grounds of appeal the applicants have referred to a multiplicity of planning applications in the wider area wherein permission was apparently granted for developments comparable to that proposed, however, in the interests of conciseness, I do not propose to comment on the individual merits of each of these schemes save to confirm that I have had due regard to same in my assessment of the subject proposal.

4.0 PLANNING AUTHORITY CONSIDERATIONS AND DECISION

4.1 Decision:

On 24th January, 2013 the Planning Authority issued a notification of a decision to refuse permission for the proposed development for the following reasons:

- The proposed development is located on a small, restricted site within the Cobh Town Boundary. Objective HOU 8-5 of the Cobh Town Development Plan states that it is an objective normally to maintain and enhance overall standards of amenity within established areas. The proposed development would, if permitted, seriously injure the amenities of the existing and neighbouring residences by virtue of overlooking of third party properties to the south and east. Furthermore, the proposal does not provide adequate usable private amenity space for future occupants. The proposed development would, if permitted, be contrary to the objective of the County Development Plan and objective HOU 8-5 of the Cobh Town Plan. The granting of permission, therefore, would be contrary to the proper planning and sustainable development of the area.
- It is considered that the proposed dwelling would represent overdevelopment of a small restricted site on which minimum standards of private amenity cannot be achieved. Permitting such development, therefore, would be out of character with the surrounding development and would seriously injure the amenities of adjoining properties. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
- The proposed vehicular access to the site intersects a poorly aligned road at a point where sightlines are severely restricted in both directions. Furthermore, because of the site's restricted road frontage, the Planning Authority is not satisfied that adequate sight distances can be provided to serve the proposed development. Accordingly, it is considered that the proposed development would endanger public safety by reason of a traffic hazard.
- The proposed development, when taken in conjunction with existing and permitted development along the narrow road serving the site would endanger public safety by reason of traffic hazard because of the extra traffic which would be generated onto this road.

4.2 Objections / Observations

A total of 3 No. submissions were received from interested parties and the principle grounds of objection contained therein can be summarised as follows:

- Detrimental impact on the residential amenity of surrounding properties by reason of overlooking and overshadowing.
- Inappropriate house design by reason of its height, mass, scale and visual impact relative to the established pattern of development.
- Inadequacy of the proposed car parking arrangements and the potential to contribute to traffic congestion along the roadway.
- Over-development of the site.
- Concerns with regard to the accuracy of the stated site area.
- Concerns with regard to the overall structural stability of the wider area and the potential for subsidence.
- The impact of construction traffic etc. on the amenity of neighbouring residences.
- The loss of an area of green space which presently acts as a natural soakaway for surface water runoff.
- The need to ensure that the construction of the proposed retaining wall does not impact on the neighbouring boundary hedgerow.
- Concerns with regard to the capacity of the existing sewage system to accommodate the increased loadings consequent on the proposed development.
- The proposal is contrary to the provisions of the Cobh Area Development Plan, 2012.
- The proposal will reduce visibility for traffic along the roadway.
- The existing roadway does not have the capacity to accommodate the increased traffic movements consequent on the proposed development.
- There is an adequate supply of housing and housing lands in the area to meet the demands of Cobh without necessitating the development of the subject site.

4.3 Internal Reports:

Waste Water Networks: No objection subject to conditions.

Acting Heritage & Conservation Officer: No objection.

Town Engineer: Recommends a refusal of permission for the following reasons:

- The proposed vehicular access to the site would join a narrow and poorly aligned road, at a point where sightlines are severely restricted in both directions. The planning authority is not satisfied on the basis of the submissions made on the application, that the traffic likely to be generated by the proposed development would not endanger public safety by reason of traffic hazard.
- The proposed development would endanger public safety by reason of traffic hazard because the restricted road frontage would preclude the provision of satisfactory sightlines at the proposed entrance.
- The proposed development when taken in conjunction with existing and permitted development along the narrow road serving the site, would endanger public safety

by reason of traffic hazard because of the extra traffic which would be generated onto this road.

Water Services: States that there is a 3” cast-iron watermain passing through the application site and that it will be necessary to maintain a wayleave with a width of 6m in favour of Cork County Council over same (i.e. 3m on either side of the main). Subject to the maintenance of this wayleave and watermain there is no objection in principle to the proposed development.

4.4 Prescribed Bodies / Other Consultees:

None.

5.0 GROUNDS OF APPEAL

The grounds of appeal are summarised as follows:

- The subject site is suitable for the development of a modest dwelling house.
- The proposed dwelling house is intended for the use of a family member and is a practical alternative to having to rely on the Housing Authority for assistance.
- The design of the proposed dwelling house has been configured to observe all relevant guidelines in respect of the provision / protection of residential amenity, the avoidance of overlooking, and the provision of private open space.
- The submitted house design takes advantage of the provision of living accommodation at first floor level through a carefully managed combination of site levels, orientation, sufficient separation distance from neighbouring dwellings, and the use of cross-sectional positioning to utilise existing planting at the site boundaries in order to avoid any overlooking or other interference with the residential amenity of adjacent properties.
- The subject proposal can be described an infill development located on a brownfield site within the existing built-up area of Cobh town centre which is proximate to public transport nodes and within walking distance of high quality social infrastructure and facilities. In this respect it should be noted that both the Cork County Development Plan and the Cobh Town Development Plan encourage the development of such infill sites as part of their strategy to meet the anticipated population targets for the period 2011-2020.
- It is considered that the decision of the Planning Authority to refuse permission for the proposed development is flawed in that it has relied on an unduly negative and unjustified assessment of the proposal based on an excessively rigid application of the relevant planning principles and has failed to apply a reasonable and balanced interpretation of the applicable development management standards and guidelines. In this respect it is submitted that the Planning Authority did not give sufficient weighting to the fact that the proposed development concerns the re-development of an infill brownfield site in a town centre location which is within easy reach of social infrastructure and facilities. It is contended that such proposals for infill development are typically received positively in the Cork County Development Plan, 2009, the Cobh Town Development Plan, 2013 and

-
- the ‘Sustainable Residential Development in Urban Areas, Guidelines for Planning Authorities, 2009’.
- In its assessment of the subject proposal the Planning Authority has failed to have due regard to the latitude afforded to proposals relating to infill sites in terms of density, site coverage, plot ratio, separation distances, and the provision of private open space. In this respect it is contended that the proposed development meets all of the basic criteria relating to infill development when assessed in accordance with the applicable guidelines.
 - It is considered that there is no little contradiction between adherence to a policy which seeks to preserve and enhance the amenities and character of an existing residential area and a parallel policy which seeks to increase density and housing yields on infill / brownfield sites and, therefore, it could be reasonably anticipated that some tensions will arise when the two policy objectives collide as would appear to have happened in the subject case. Accordingly, it is submitted that some partial acceptance of sub-optimal outcomes is predicated in the concept of infill development and that it would be unreasonable to expect such development proposals to adhere in full to the established pattern of development. Therefore, there is a need for flexibility and balance to be applied in respect of planning policy.
 - The suggestion that the proposed development would, if permitted, seriously injure the amenities of those properties to the south and east by reason of overlooking is rejected.

Firstly, there is no direct line of sight between the proposed development and the property to the south as the first floor level in the proposed dwelling house is equivalent to the ridge height of that property whilst the intervening roadside boundary also serves to screen any injurious sightline. Furthermore, the proposed development faces the opposing facade of the property to the south and it is of relevance to note that the ‘Sustainable Residential Development in Urban Areas, Guidelines for Planning Authorities, 2009’ recognise that *‘residents have a higher expectation of privacy from the private or garden side of the dwelling than from the front’*.

Secondly, the dwelling to the east is screened by existing planting and is also some 35m from the proposed dwelling house (and c.30m from the proposed balcony). In addition, it should be noted that in its assessment of PA Ref. No. 09/52019 (which pertains to the property to the east) the Planning Authority required the modification of a proposed balcony through the provision of trellis screening together with screen planting in order to protect the amenities concerned.

- The proposed development adheres to the required standards of amenity as stipulated in the *‘Sustainable Residential Development in Urban Areas, Guidelines for Planning Authorities’* and the associated Urban Design Handbook. In this respect it is submitted that the area of private open space available behind the building line meets the minimum guideline requirement even allowing for the

-
- loss of 24m² to the on-site parking area, whilst the use of a balcony area to augment the provision of such amenity space is not precluded by the Guidelines.
- There are multiple documented instances of other developments having been permitted within the Cobh area with inferior private open space provision, inadequate car parking and closer proximity to site boundaries (e.g. PA Ref. No. 71/03).
 - The Planning Authority has erroneously concluded that the usable open space provided at ground level is inadequate and / or that the achievement of the augmented level of amenity in the form of a raised balcony is somehow prohibited or otherwise only applies to apartment developments.
 - The space provided to the east of the proposed dwelling house measures 84m², of which 24m² is necessarily lost to car parking, leaving a net usable amenity area of 60m² as per the Guidelines. The fact that this space was augmented through the provision of a raised balcony area is understandable given the desire to avail of the views over Cork Harbour. Furthermore, it would have been open to the Planning Authority to seek a modified design if it insisted on the provision of the required level of private open space at ground level.
 - With regard to the adequacy of the available sightlines at the site entrance, it is apparent from a review of other planning applications in the area that several developments have been permitted notwithstanding inadequate sightlines and deficiencies in parking provision (e.g. PA Ref. Nos. 09/52019, 04/52019, 58/03, 22/04 & 04/52049).
 - The proposed development site is located along a privately owned cul-de-sac where access is restricted to residents with rights of way over the road only to access the particular properties concerned.
 - With regard to the potential traffic hazard associated with vehicles manoeuvring in restricted areas, the Board is referred to the accompanying photographs appended to the grounds of appeal which purportedly detail similar instances of development which were not regarded by the Planning Authority as warranting a refusal of permission.
 - If necessary, the applicants are amenable to erecting a traffic mirror in addition to signage which will limit traffic speeds along the laneway to 15kph.
 - It is considered that the proposed development accords with the requirements of the Cork County Development Plan, 2009 in terms of urban design, car parking and private open space provision.
 - The proposed development complies with the strategic objectives of the Cork County Development Plan (i.e. HOU 7-1 & HOU 9-4) with regard to the development of sustainable residential communities and the use of infill sites.
 - The proposed development is compatible with the wider objectives of the Cobh Town Development Plan which seek to facilitate residential development within the town centre built-up area. In this respect the Board is advised that the projected yield from infill lands has been calculated as representing almost 30% of the Total Housing Yield for the period 2011-2016 as set out in Table 2.3 of the Plan.
 - Section 5.2 of the Cobh Town Development Plan, 2013 refers to the limited availability of land for residential development within the administrative area of

Cobh Town Council and emphasises the need for units to be provided as part of infill / redevelopment schemes in the town. Accordingly, it is submitted that the subject proposal is supportive of this objective.

- The proposed development is considered to be compatible with the provisions of Objective Nos. '*HOU-04: Sustainable Residential Communities*', '*HOU-5: Protecting Residential Amenity*', '*HOU-08: Infill Development*' & '*HOU-11: Existing Built-Up Area*' of the Cobh Town Development Plan, 2013.
- The subject proposal achieves an adequate performance standard by reference to the quantitative and qualitative criteria specified in the 'Sustainable Residential Development in Urban Areas, Guidelines for Planning Authorities, 2009' and the Urban Design Handbook.
- During the course of pre-planning discussions it is submitted that the Planning Authority displayed a decidedly negative posture towards the concept of a viable development at the location proposed and demonstrated an unwillingness to engage with the applicants in identifying possible solutions to perceived impediments / difficulties.
- It is considered that there are inconsistencies in the Planning Authority's application of the relevant design standards in respect of the subject proposal when compared to other permitted developments in the area.
- With regard to the existing watermain along the laneway there is no record of any wayleave having been granted in respect of same nor is there any record of compensation having been provided for the injurious affection caused by this watermain and its detrimental consequences for the development of the subject lands. Furthermore, it would have been thought that a more reasonable approach on the part of the Planning Authority would have been to advert to possible 'work-around' options such as the re-routing / relocating of the watermain.
- Having regard to the positioning of the proposed dwelling house into the sloped terrain there is no more than slight overshadowing of the lower garden area of the house immediately north of the development. This overshadowing will vary with the sun's path over the course of the day and is typical of residential areas in general.
- It is apparent that no more difficulty is anticipated in the course of constructing the proposed development than was encountered during the construction of any of the other dwelling houses in the area. Furthermore, the applicant's residence to the immediate northeast of the application site is available to accommodate any construction vehicles should the need arise during the construction phase.
- The suggestion that the proposed development will increase the risk of flooding of a nearby property is rejected and is not supported by the evidence on the ground. In this respect it is submitted that the proposed development directs surface water runoff downstream of the complainant's entrance which is located on higher ground.
- The proposed development site is located along a private cul-de-sac which serves a cluster of 12 No. houses and, therefore, it is considered unreasonable to impose unduly onerous standards such as those applicable for sightlines onto public roads. Notably, the Planning Authority did not deem it necessary to intervene with regard to the availability of sightlines in its assessment of PA Ref. No. 09/52019.

Accordingly, it is inappropriate to refuse permission for a proposal which concerns the redevelopment of an existing site located along a private road on the basis of restricted sightlines.

- It is the applicants understanding that it would be open to them to refurbish the existing structure on site and to make use of its existing parking facilities. Therefore, it is difficult to understand how the Planning Authority can insist on the provision of sightlines thereby frustrating said use when there is no evidence to suggest a serious traffic hazard on a private road serving only 12 No. houses in a cul-de-sac residential area.
- In relation to concerns regarding the alleged instability of earthworks and / or retaining structures, the Board is referred to the applicants submission to the Planning Authority dated 20th November, 2012 which has addressed the issues raised and commits to any such works being designed and carried out by suitably qualified persons with any necessary liaison as may be required.
- Having regard to the site location within an existing residential built up area, the objective for which is to consolidate residential development, and to the Development Plan policy of encouraging infill residential development in Cobh, and on brownfield sites within the town centre built -up area in particular, it is considered that the proposed development would not seriously injure the amenities of the area or of property in the vicinity, would be acceptable in terms of urban design, private open space provision, traffic safety (as appropriate to a private road), and would otherwise be in accordance with the proper planning and sustainable development of the area.

6.0 RESPONSE TO GROUNDS OF APPEAL

6.1 Response of the Planning Authority:

- States that it was not the intention of the Planner's Report to convey a '*criticism*' of the development for falling beneath the plot ratio benchmark required, but rather to make a '*statement of fact*'.

7.0 OBSERVATIONS

7.1 Richard Steele:

- The observer's dwelling house is accessed via a right of way over an existing laneway on which he has an easement similar to that acquired by the applicant's late grandfather as noted on Land Registry Folio No. 36418 dated 12th October, 1954. The applicant's late grandmother subsequently acquired the ownership of the laneway in 1992 with the intention of developing sites (through Fleming Construction) and using the laneway as a means of connecting to the public mains sewer on Bellvue Hill.
- In 2005 the observer was approached to make an equal contribution with other residents along the laneway towards the surfacing of same in tarmac. To his knowledge no other work has been carried out nor has he been approached in that regard even though the application site has remained unkempt with the small

-
- derelict 'existing structure' on same, which previously served as a rough workshop, having gradually fallen into a state of disrepair.
- The applicants previously lodged a planning application in 2008 under PA Ref. No. T.P. 08/52012 even though ownership of the site was not listed in their name until 23rd July, 2009 on Land Registry Folio No. 36418. This application was subsequently withdrawn and the site area then regressed to wilderness except at times when the grass was occasionally cut to reduce motorised congestion in the applicant's driveway.
 - The subject appeal would appear to be based on a comparison / contrast of the submitted proposal with other developments previously granted planning permission in the area. In this respect it is submitted that no regard has been had to the individual merits of the schemes referenced and, therefore, the subject proposal should not be compared to same as none of those developments were located along a secluded cul-de-sac where the amenity area is in generous proportion (with the exception of PA Ref No. 21/00 where the house was built on a previous dwelling).
 - In assessing the subject appeal consideration must be given to the wishes of the majority of residents who are of the opinion that the development of this small site would represent an invasion of their privacy and amenity, would constitute a traffic hazard, would be out of character with the surrounding pattern of development, and would amount to a complete dereliction of the local development plan.

8.0 NATIONAL AND REGIONAL POLICY

8.1 The '*Sustainable Residential Development in Urban Areas, Guidelines for Planning Authorities, 2009*' note that in general, increased densities should be encouraged on residentially zoned lands and that the provision of additional dwellings within inner suburban areas of towns or cities, proximate to existing or due to be improved public transport corridors, has the potential to revitalise areas by utilising the capacity of existing social and physical infrastructure. Such developments can be provided either by infill or by sub-division. In respect of infill residential development potential sites may range from small gap infill, unused or derelict land and backland areas, up to larger residual sites or sites assembled from a multiplicity of ownerships. In residential areas whose character is established by their density or architectural form, a balance has to be struck between the reasonable protection of the amenities and the privacy of adjoining dwellings, the protection of established character and the need to provide residential infill.

9.0 DEVELOPMENT PLAN

Cobh Town Development Plan, 2013:-

Land Use Zoning:

The proposed development site is located in an area zoned as '*Existing Built-Up Area*'.

Other Relevant Polices / Sections:

Chapter 5: Housing:

Section 5.6: Developing Sustainable Residential Communities:

Development Objective: Sustainable Residential Communities

HOU- 04:

- a) It is an objective of this plan to ensure that all new development within Cobh is of a high design quality and supports the achievement of successful urban spaces and sustainable communities. The Council will have regard to the provisions of the Guidelines on Sustainable Residential Development in Urban Areas and the Accompanying Urban Design Manual, in development plan preparation and in assessing applications for development through the development management process. and meets the requirements as set out in Chapter 8, relating to Protected Structures and Architectural Conservation Areas.
- b) It is an objective of this plan to promote development which prioritises and facilitates walking, cycling and public transport use, both within individual developments and in the wider context of linking developments together and providing connections to the wider area, existing facilities and public transport nodes such as bus and rail stops.
- c) It is an objective of this Plan to encourage higher residential densities at appropriate locations within the town so that average densities will generally be in accordance with Government advice.
- d) It is an objective to secure the development of a mix of house types and sizes to meet the needs of the likely future population in accordance with the guidance set out in the Joint Housing Strategy and the Guidelines on Sustainable Residential Development in Urban Areas.

Section 5.9: Other Residential Developments / Protecting Residential Amenity

Section 5.10: Zoning Objectives (Built Up Area)

Development Plan Objectives: Residential Amenity:

HOU-05: Protecting Residential Amenity:

It is an objective, normally, to maintain and enhance overall standards of amenity within existing residential areas.

HOU-08: Infill Development:

It is an objective, normally, in residential areas, to ensure that proposals for 'infill' development, preserve or enhance both the character of the area as a whole and the setting of any original buildings on the site.

HOU-11: Existing Built Up Area:

It is an objective of this Plan that development proposals within the existing built up area will be assessed with reference to:

- The provisions of this Plan.

-
- The character of the surrounding area.
 - Other planning and sustainable development considerations considered relevant to the proposal or its surroundings.

Chapter 6: Social and Community Facilities:

Section 6.9.14: Private Open Space:

SCF-21: Private Open Space Provision:

It is an objective of the Plan to apply the standards contained in the Guidelines on Sustainable Residential Development in Urban Areas and the Urban Design Manual (DoEHLG 2008) and “Making Places: A Design Guide for Residential Estate Development (May 2011)” prepared by Cork County Council. With regard to apartment developments, the guidelines on Sustainable Urban Housing: Design Standards for New Apartments (DoEHLG 2007) will apply.

10.0 ASSESSMENT

From my reading of the file, inspection of the site and assessment of the relevant local, regional and national policies, I conclude that the key issues raised by the appeal are:

- The principle of the development
- Overall design and layout
- Impact on residential amenity
- Traffic implications
- Appropriate assessment

These are assessed as follows:

10.1 The Principle of the Development:

10.1.1 The proposed development site is located on lands zoned as ‘Existing Built-Up Area’ in the Cobh Town Development Plan, 2013 and within such areas it is the policy of the Planning Authority as set out in Objective No. HOU-11 to assess proposals for new development having regard to the provisions of the plan, the character of the surrounding area and all other relevant planning and sustainable development considerations applicable to the proposed development and its surroundings. In this respect it is of relevance to note that the approach to land use zoning employed in the current Town Development Plan, whereby those parts of the town which have already been developed and which were previously zoned for residential and other uses in earlier development plans have been zoned as ‘Existing Built-Up Area’, is intended to provide for a more positive and flexible response within these areas as regards proposals for development. Furthermore, it should be noted that on the basis of the population growth projections for the town set out in the Core Strategy outlined in Chapter 2 of the Development Plan, and given the limited availability of land for residential development within the Plan area, a significant majority of the town’s future housing provision is expected to arise from infill / redevelopment schemes and, therefore, it is considered crucial for the town that the Planning Authority encourages infill redevelopment and ‘living over the shop’ schemes

in order to deliver a high standard of residential development which is attractive to owner occupiers and families. Accordingly, Section 5.9.3 of the Plan specifically refers to the development of '*Residential Infill*' and states that potential sites may range from small gap infill, unused or derelict land, up to larger undeveloped sites within established residential areas, and that in the assessment of any such proposals a balance must be struck between the reasonable protection of the amenities and privacy of adjoining dwellings, the protection of established character and the need to provide residential infill. This policy provision is subsequently given practical expression in Objective No. HOU-08: '*Infill Development*' which aims to ensure that in residential areas proposals for 'infill' development will normally preserve or enhance both the character of the area as a whole and the setting of any original buildings on site. Similarly, the '*Sustainable Residential Development in Urban Areas, Guidelines for Planning Authorities, 2008*' acknowledge the potential for infill development within established residential areas provided that a balance is struck between the reasonable protection of the amenities and the privacy of adjoining dwellings, the protection of established character and the need to provide residential infill.

10.1.2 Having regard to the foregoing, and in light of the site context, in my opinion, it is clear that the submitted proposal qualifies as infill development and is therefore acceptable in principle, subject to the consideration of all other relevant planning issues, including the impact, if any, of the proposal on the amenities of neighbouring properties and on the overall character of the wider area.

10.2 Overall Design and Layout:

10.2.1 The proposed development involves the demolition of an existing derelict structure and the construction of a new 3-bedroom, two-storey dwelling house within the confines of a particularly restricted site and in this respect it is of relevance to note that the Planning Authority has chosen to refuse permission for the subject proposal on the basis that it would constitute an overdevelopment of the application site by reason of the inadequate provision of private amenity space and as it would be out of character with the prevailing pattern of development thereby seriously injuring the amenities of adjoining properties. However, the applicants have rejected the foregoing assertions and have instead insisted that the overall design and layout of the proposed development is appropriate to the site when taken in context as an infill development. Accordingly, it is necessary to review the overall suitability of the site for the size and scale of development proposed having regard to the need to ensure the reasonable protection of the amenities and privacy of adjoining properties, the protection of the established character of the wider area, the requirement to provide for residential infill and also the need to provide a satisfactory level of residential amenity for any future occupants of the proposed dwelling house.

10.2.2 At this point I would advise the Board that the proposed development site is restricted in size in that it has a stated site area of only 0.0227 hectares and essentially amounts to a disused residual 'wedge' of land located along the roadside whilst its elongated triangular shape further serves to limit its development potential. In addition, it is also of relevance to note that the report of the Water Services Department of the Local

Authority has confirmed that there is a 3” cast iron watermain within the easternmost part of the site (as shown on the map appended to same) and that in order to avoid any encroachment of same it will be necessary to provide a 6m wide wayleave through the site over this watermain (i.e. 3m on either side of same) in favour of Cork County Council for the purposes of continued repair and maintenance. Therefore, given the obvious developmental limitations of the site I would be inclined to concur with the Planning Authority’s concerns as regards the potential for overdevelopment of the site.

10.2.3 The proposed development consists of the construction of a three-bedroom, two-storey dwelling house with a stated floor area of 101m² which, in my opinion, would represent a considerable level of development given the on-site constraints and in this respect I would have a number of reservations as regards the likely level of residential amenity to be enjoyed by future occupants of the proposed dwelling house both in terms of quality open space provision and the standard of accommodation given the scale of development proposed.

10.2.4 In the first instance I note that the only window serving the rear bedroom at ground floor level (Bedroom No. 3) faces directly onto the retaining wall proposed along the northern site boundary and that given the height of this wall relative to the window and the separation distance of 1.2m between same as shown on the site layout plan, Drg No. WALSH-01(a) (although I would suggest that this separation distance will be probably less than 1.0m in practice), it is clear that this bedroom will receive no direct sunlight and very little natural daylighting. Whilst I would concede that a lack of direct sunlight / daylight to those other windows serving the bathroom and wardrobe areas to the rear of the proposed dwelling house would not necessarily be of particular significance, I would suggest that there would be a greater expectation in terms of the amount of sunlight / daylighting to be received by a bedroom and thus a higher standard of amenity should be applied to same.

10.2.5 With regard to the provision of private open space I would refer the Board to the ‘*Sustainable Residential Development in Urban Areas, Guidelines for Planning Authorities, 2009*’ and the associated ‘*Urban Design Manual*’ which both acknowledge the importance of providing all dwelling houses with an adequately sized area of external private open space located behind the building line where all occupants of the property can comfortably sit out at the same time without being directly overlooked. At this point it is of relevance to note that the Guidelines and the Urban Design Manual would seem to place an increased emphasis on the quality of private open space provision with no stated minimum quantitative standard save for a requirement for the area provided to be proportionate to the size of the dwelling proposed, however, in accordance with Objective No. SCF-21: ‘*Private Open Space Provision*’ of the Town Development Plan, guidance issued by Cork County Council by way of ‘*Making Places: A design guide for residential estate development*’ requires the provision of a minimum of 60m² of private garden area to the rear of a three-bedroom house in order to accommodate most household activities and at the same time offer visual delight, receive some sunshine and encourage plant growth. In this respect it should be noted that the submitted proposal has sought to satisfy its private open space requirement through the provision of a side garden

area measuring approximately 23m² to the east of the proposed dwelling house with additional amenity space to be provided in the form of a series of balconies at first floor level totalling 30.2m². Accordingly, this would equate to a cumulative total of approximately 53.2m² of external amenity space intended for the exclusive use of the occupants of the proposed dwelling house, although in the grounds of appeal the applicant has submitted that the space provided to the eastern side of the dwelling house at ground floor level measures some 84m² of which 24m² is necessarily lost to car parking thereby leaving a net usable area of 60m² in addition to the amenity space provided at balcony level.

10.2.6 Having reviewed the available information, including the detailed assessment set out in the Planner's Report held on file, whilst I would acknowledge the merits of the applicants case in that the subject application involves the redevelopment of a restricted infill site and thus it should be afforded some degree of flexibility in terms of achieving the necessary minimum standards, including open space provision, I am inclined to concur with the Planning Authority that the overall scale of development proposed on site is excessive and would offer a poor standard of residential amenity in terms of quality open space provision. In this respect I do not accept the applicants submission that the area to the east of the proposed dwelling house amounts 84m² as an approximate measurement from the submitted site layout plan would suggest that this area actually measures closer to 63m², whilst the suggestion that the remaining 'net usable amenity space' at ground floor level (exclusive of the car parking and circulation areas) equates to 60m² is also rejected on the basis that I estimate this area as measuring only 23m². Furthermore, I would have several concerns as regards the actual 'usability' of this space given its limited size and overall configuration. In addition, its positioning alongside the roadway would seem to offer little in the way of privacy and whilst it would be possible to achieve an increased level of privacy within this area through the erection of a roadside boundary wall I would have concerns that any such construction would serve to obstruct the sightlines available from the site entrance onto the access roadway. Accordingly, in my opinion, it is readily apparent that the side garden area proposed is seriously substandard both in quantitative and qualitative terms and thus cannot be considered as satisfying the amenity requirements which would be expected for a three-bedroom dwelling house as regards open space provision. Similarly, notwithstanding the provision of an additional 30.2m² of amenity space in the form of the first floor balconies, the total cumulative open space provision would remain considerably below the expected minimum standard. Therefore, it is my opinion that the proposed development would provide for a poor quality residential environment for the future residents of the dwelling house and thus would represent an overdevelopment of the application site.

10.2.7 In addition to the foregoing, the overall design and layout of the proposed development would be out of character with the surrounding area which is dominated by low-rise / single storey dwelling houses set on substantial housing plots with spacious grounds / garden areas. Indeed, the overall scale and massing of the proposed dwelling house relative to the site size, its proximity to the site boundaries and its positioning relative to the access roadway, all serve to demonstrate that the proposal would be contrary to the established pattern of development.

10.3 Impact on Residential Amenity:

10.3.1 Having reviewed the submitted documentation it is clear that the principle concern with regard to the potential detrimental impact of the proposed development on the residential amenity of neighbouring properties relates to the possibility of overlooking and a loss of privacy. In this respect I would have particular concerns regarding the potential impact of the proposal in terms of the overlooking of those properties to the south and east of the application site from the main balcony area proposed to the front of the dwelling house. For example, the proposed development will be located in an elevated position over these properties and will be within 13m of the dwelling house to the south and 31m of the dwelling to the east. Whilst I would accept that these dwelling houses and their associated private garden areas are located on the opposite side of the roadway and are generally screened from public view by the existing roadside boundary hedgerows, I would suggest that the inclusion of the balcony areas in the proposed development would effectively oblige the occupants of these properties, with particular reference to that to the immediate south, to maintain these boundary hedgerows indefinitely given that the removal of same or a reduction in their height would allow views into the properties from the proposed balcony area thereby resulting in a loss of privacy. Accordingly, it is my opinion that the inclusion of the proposed balcony areas would amount to an interference with the ability of surrounding third party property owners to enjoy the full benefit of their lands without giving rise to a loss of amenity.

10.4 Traffic Implications:

10.4.1 The proposed development site will be accessed via an existing laneway which extends north-eastwards from the public road at Bellvue Terrace to serve a cul-de-sac of 12 No. dwelling houses. This laneway is retained in private ownership, is poorly aligned and is substandard in terms of its carriageway width whilst it is also lacking in local services including a public footpath, street lighting and a dedicated turning area. Accordingly, concerns have been raised that the laneway does not have sufficient capacity to accommodate the increase in traffic movements associated with the proposed development, however, in anticipation of these concerns the applicants have included proposals to replace the grassed verge along the southern side of the carriageway (as shown on the submitted site layout plan) with a hardstanding area thereby widening the laneway at this location.

10.4.2 Having conducted a site inspection, in my opinion, it is clear that the existing laneway is substandard in a number of respects, including its overall alignment and width, and whilst the proposed development will only result in a limited level of additional traffic as would be associated with the construction and subsequent occupation of a single dwelling house, notwithstanding the proposal to upgrade a section of this roadway, I am inclined to suggest that the Planning Authority was fully warranted in its decision to refuse permission on the basis that the roadway is seriously substandard and that the generation of the additional traffic consequent on the proposed development would endanger public safety by reason of traffic hazard.

10.4.3 In respect of the sightlines available from the proposed site entrance onto the adjacent roadway, whilst I would accept that the roadway in question only serves a small cluster of housing before terminating in a cul-de-sac and that the traffic speeds and volumes along same are likely to be quite low, given the restricted site frontage, the absence of a public footpath and the sites proximity to a bend in the roadway, it is clear that the available sight distance from the proposed entrance, particularly in an easterly direction, is far from ideal and thus I would be inclined to concur with the Planning Authority's assessment that the proposal has the potential to endanger public safety by reason of traffic hazard.

10.5 Appropriate Assessment:

10.5.1 Having reviewed the contents of the subject application and the grounds of appeal, in my opinion, given the nature and scale of the development proposed, the availability of public services, the nature of the receiving environment and the proximity of the nearest European site, it is reasonable to conclude, on the basis of the information available, which I consider adequate in order to issue a screening determination, that the proposed development, both individually and in combination with other plans or projects, would not be likely to have a significant effect on any European site, and an appropriate assessment and the submission of a NIS is not therefore required.

11.0 RECOMMENDATION

Having regard to the foregoing I recommend that the decision of the Planning Authority be upheld in this instance and that permission be refused for the proposed development for the reasons and considerations set out below:

Reasons and Considerations:

1. Having regard to the limited area of the site, the design, scale and layout of the development proposed, its proximity to adjacent residential properties, and the layout and extent of the proposed private amenity open space, it is considered that the proposed development would offer a poor standard of residential amenity in terms of quality open space provision, would result in a substandard residential environment for future residents, would be out of character with the surrounding pattern of development, and would seriously injure the amenities of property in the vicinity. The proposed development would therefore constitute overdevelopment of the site and would be contrary to the proper planning and sustainable development of the area.
2. The proposed development is located on a minor road which is seriously substandard in terms of width and alignment. Furthermore, the sightlines available from the site entrance onto the roadway are considered to be seriously deficient. Accordingly, it is considered that the proposed development would endanger public safety by reason of traffic hazard through the generation of additional traffic turning movements and the obstruction of road users. The proposed

development would, therefore, be contrary to the proper planning and sustainable development of the area.

Signed: _____

Robert Speer
Inspectorate

Date: _____