



An  
Bord  
Pleanála

## Inspector's Report

**Development:** Outline permission for demolition of habitable dwelling and derelict structures and construction of 14 no. dwellings at Sunview, South Douglas Road, Cork.

### Planning Application

Planning Authority: Cork City Council  
Planning Authority Reg. Ref.: 16/36734  
Applicant: Peter Bell  
Type of Application: Permission  
Planning Authority Decision: Refuse Permission

### Planning Appeal

Appellant(s): As above  
Type of Appeal: First Party V Refusal  
Observers: Gerry Brosnan  
Date of Site Inspection: 14<sup>th</sup> September 2016  
Inspector: Kenneth Moloney

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## **1.0 SITE DESCRIPTION**

The appeal site is located off the South Douglas Road in a traditional inner suburban location characterised primarily by two-storey semi-detached dwellings. The appeal site was essentially a rear garden serving the existing house to the front of the subject site which faces onto the South Douglas Road. However up until recent years the large rear garden has been in use as a private pitch and putt course. This use has now ceased.

The size of the appeal site is approximately 0.47 ha and the shape of the site is approximately rectangular. The appeal site is surrounded by established housing and as such the rear garden boundaries of the established housing adjoin the perimeter boundaries of the appeal site. There are established mature trees along the perimeter of the subject site.

The gradient of the site slopes slightly downwards from east to west and therefore the existing houses on the eastern side of the appeal site are situated on slightly higher ground than the appeal site.

The existing house on the appeal site has the appearance of a period property however there are many modern additions including windows. The sheds and outhouses associated with the main house are generally in a poor condition. The existing site has two vehicular entrances onto the South Douglas Road.

## **2.0 PROPOSED DEVELOPMENT**

Outline planning permission is sought for the demolition of an existing habitable two-storey dwelling and derelict structures incidental to the dwelling. The proposed development includes the construction of 14 no. dwellings comprising of;

- 10 no. 2-storey houses
- 4 no. apartments

It is proposed that the apartments will be in the form of two-storey blocks.

The private open space for the housing is in the form of rear gardens and the open space proposed to serve the apartments is semi-private open space. The vehicular access to serve the proposed development is onto the South Douglas Road.

The proposed development also includes the provision of 28 no. car parking spaces.

## **3.0 PLANNING AUTHORITY'S DECISION**

The Planning Authority decided to **refuse** planning permission for the following reason;

1. The majority of the proposed development site (c. 80%) is located in an area zoned ZO 13 Sports Grounds in the Cork City Development Plan, 2015 – 2021, with the objective to protect, retain and enhance the range and quality of sports facilities and grounds. Paragraph 15.20 and Objective 11.9 of the development plan set out that there is a presumption against the loss of land zoned sports grounds to other forms of development and seek to ensure that lands zoned sports ground are not developed. Having regard to the objectives of the Cork City Development Plan, 2015 – 2014, it is considered that the proposed development would materially contravene land-use zoning Objective ZO 13 Sports Grounds, paragraph 15.20 and Objective 11.9 of the Cork City Development Plan, 2015 – 2021, and would therefore be contrary to the proper planning and sustainable development of the area.

Internal Reports: There are no internal reports on the file:

- Environmental Waste Management: - No objections subject to conditions.
- Drainage Division: - Further information sought in relation to foul drainage proposals.
- Heritage Officer: Acceptable subject to condition. No felling of trees during breeding season for birds.
- Transportation and Mobility Division: - No objections.
- Parks: No objections.

Objections: There are eighteen third party objections on the planning file and the issues raised have been noted and considered.

Submissions: There is a submission from Irish Water who have requested additional information in relation to foul drainage.

Representation: There is a representation from Cllr. Terry Shannon.

#### **4.0 PLANNING HISTORY**

- None.

#### **5.0 DEVELOPMENT PLAN**

Cork City Development Plan, 2015 – 2021, is the operational Development Plan.

The overall appeal site has two zoning objectives.

The front of the site where the existing house and associated outhouses are located is zoned 'ZO4-Residential, Local Services and Institutional Uses'. The objective of this land-use is *'to protect and provide for residential uses, local services, institutional uses, and civic uses, having regard to the employment policies outlined in Chapter 3'*.

The remainder of the site is zoned 'Z013: Sports Grounds'. The objective of this land-use is 'to protect, retain and enhance the range and quality of sports facilities and grounds'. Paragraph 15.20 states that only development that is ancillary to the principle use of the site for sports and which will only affect lands incapable of forming part of the playing pitches will be considered in these areas.

#### Chapter 6

The following policy objectives are relevant to the proposed development;

- Objective 6.1 – Residential Strategic Objectives
- Objective 6.8 – Housing Mix
- Objective 6.9 – Housing Density

#### Chapter 11

Paragraph 11.15 sets out the Open Space Strategy in relation to City Parks.

Paragraph 11.24 – 11.26 sets out guidance in relation to Public Open Space Provision.

#### Chapter 16

Part C: Residential Development is a relevant consideration for the proposed development.

### **6.0 NATIONAL GUIDELINES**

#### Sustainable Residential Development in Urban Areas, 2009

The Guidelines promote higher densities in appropriate locations. A series of urban design criteria is set out, for the consideration of planning applications and appeals. Quantitative and qualitative standards for public open space are recommended. In general, increased densities are to be encouraged on residentially zoned lands, particularly city and town centres, significant 'brownfield' sites within city and town centres, close to public transport corridors, infill development at inner suburban locations, institutional lands and outer suburban/greenfield sites. Higher densities must be accompanied in all cases by high qualitative standards of design and layout.

DoEHLG 'Sustainable Urban Housing: Design Standards for New Apartments', 2007

These guidelines provide recommended guidance for internal design standards, storage areas and communal facilities, private open spaces and balconies, overall design issues and recommended minimum floor areas and standards.

## **7.0 GROUNDS OF APPEAL**

Tricia O'Sullivan, Planning Consultant, submitted a first party appeal, on behalf of the applicant. The appeal submission sets out a description of the site and context, the site's zoning objectives, details of the pre-app consultation, details of the proposed development and the grounds of appeal. The following is a summary of the pertinent issues raised in the grounds of appeal.

- The proposed development is consistent with Chapter 6.1 Residential Strategic Objectives and Infill Sites in Section 16.59 of Chapter 16.
- The proposed development would make better use of currently under-utilised land.
- The proposed development is consistent with Objective 6.2 of the City Development Plan.
- The proposed dwelling mix is in accordance with Table 16.4 of the Development Plan.
- Chapter 16 sets out guidance in relation to residential density and advises that a minimum of 50 dwellings/ha is indicated on suitable transportation routes. The subject site is well served by bus services.
- The proposed development provides for 29.8 dwellings per hectare.
- The proposed development attempts to balance the density objectives of Cork City Council's Development Plan with the density of the surrounding area and the proximity of the site to the city centre.
- The proposed apartments to the front of the site would provide an active street frontage onto South Douglas Road.
- In relation to public open space the proposed development provides semi-private open space in lieu of private open space and this is consistent with Paragraphs 16.19 and Paragraph 16.20 of the City Development Plan.
- The proposed development is consistent with private open space requirements set out in Table 16.7 of Chapter 16.
- The proposed access is similar to the existing access and amended to suit current standards.
- The proposal provides car parking standards in accordance with development plan standards.
- Paragraph 16.63 provides for the replacement of single houses with higher densities.
- It is proposed to provide up to 10% housing units of the proposed development for Part V Housing provision in accordance with the Urban Regeneration and Housing Act, 2015.

- Notwithstanding Paragraph 11.27 and Paragraph 11.26 of the City Development Plan it is now considered that the subject site is a vacant site and it is not been maintained for a pitch and putt course nor is there the investment resources available to improve the facilities. The pitch and putt course was privately owned but is now redundant.
- There are a number of active pitch and putt courses located in the area and these are listed in the submission.
- It is contended that the nearby newly developed Tramore Valley Public Park and other sports and leisure facilities provide adequate amenity facilities in the local area.
- The guidance document 'Urban Design Manual: A Best Practice Guide (DOEHLG, 2008) outlines that the preferred approach for open space provision is larger open spaces to facilitate playing pitches.
- Given the location of the appeal site behind established houses it is unlikely to provide suitable sports facilities.
- It is submitted that Table 11 of the Cork City Development Plan identifies Lower Level Park Project proposals however no projects are proposed in the South-Centre City area as there is sufficient open space for sports facilities within a short distance from Sunview.
- It is submitted that Paragraph 15.4 and Paragraph 15.5 of the City Development Plan sets out provisions for material contraventions.
- Section 5.12 of the Development Management Guidelines, 2007, sets out guidance which outline that material contraventions are not prohibited.
- It is contended that this redundant sports facility which takes up the majority of a vacant site could be more efficiently used for housing. This opinion is in accordance with the reporting Director of Services in Cork County Council.
- The proposed housing development would contribute towards the shortage of housing within the city.

## **8.0 OBSERVERS**

Cunnane Stratton Rynolds submitted an observation on behalf of Gerry Brosnan;

- The established use for the majority of the appeal site is a pitch and putt course, i.e. 80% of the overall site. This is reflected in the current land-use zoning maps of the City Development Plan.
- The pitch & putt course began in 1945 and ceased operating in 2010, however the land-use has not ceased to exist.
- It is submitted that the applicant has had the opportunity to make submissions in relation to land-use zoning.
- There is a statutory obligation of the Local Authority to implement the policies and objectives of the City Development Plan as set out in the Planning and Development Act, 2000.
- The Planning Authority determined that the proposed development contravenes the City Development Plan.

- The applicant was advised at a pre-app meeting that approximately the 80% of the site is zoned 'Sports Ground' and the presumption against development on this site.
- Section 37(2) of the Planning and Development Act, 2000, sets out provisions for the granting of permission in cases where proposed development contravenes the zoning objective.
- It is submitted that the proposed development is not consistent with Section 37(2) of the Planning and Development Act for the following reasons (i) the proposed development is not of strategic importance, (ii) there is no evidence of a conflict of development plan policies, (iii) it has not been proven that the development should be granted due to overriding regional policies, guidelines or directives, (iv) the proposal would seriously injure established residential amenities.
- It is submitted that the applicant should have requested a change to the zoning objective at the development plan review.
- It is submitted that the applicant has not full legal ownership of the site in question and the proposed development encroaches on no. 9 Woodgrove to the west of the subject site. This is demonstrated on a submitted map.
- There are inadequate details in terms of landscaping and hedging.
- The proposed development is inconsistent with Section 6.10 of the Sustainable Residential Development Guidelines (2009) which relates to back to back separation distance between residential properties.
- The proposal will give rise to overlooking as there is less than 11 metres from the proposal to the western boundary.
- The height of the proposed dwellings are 1.5 metres higher than the existing houses in Loreto Park.
- The purpose of the green area in the south west of the site is unclear.
- Chapter 16 of the County Development Plan sets out the development management standards and requirements. However there is a deficiency of public open space provision for the proposed development.
- It is unclear from the apartments whether there is sufficient balcony provision. The lack of private open space for the proposed apartments would have a detrimental impact on residential amenities for future occupants.
- There is insufficient detail with regards to foul and storm water services.
- There is inadequate housing mix proposed and the proposed development fails to comply with Objective 6.8 of the City Development Plan.
- It is contended that the two apartment developments are inconsistent with the character of the area as the local area is characterised by detached and semi-detached dwellings.

## **9.0 RESPONSES**

### **Second Party Response**

The local authority submitted a response and it is summarised as follows;

- The proposal was refused permission as the proposed development contravened the zoning objective of the appeal site.
- A material contravention of the CDP was supported by the Director of Services in his report to the elected members.
- The Environment and Recreational Directorate does not see this site has having any recreational potential despite its zoning.

## **10.0 ASSESSMENT**

The main issues to be considered in this case are: -

- 10.1 Principle of Development
- 10.2 Residential Amenity
- 10.3 Other Issues

### **10.1 Principle of Development**

- 10.1.1 The proposed development is for fourteen residential units comprising of 5 pairs of semi-detached houses and 4 no. apartments. The majority of the appeal site is zoned 'Z013: Sports Grounds' in accordance with the provisions of the Cork City Development Plan, 2015 - 2021. The objective of this land-use is '*to protect, retain and enhance the range and quality of sports facilities and grounds*'. Paragraph 15.20 of the City Development Plan states that only development that is ancillary to the principle use of the site for sports and which will only affect lands incapable of forming part of the playing pitches will be considered in these areas. Therefore there is a presumption against granting permission for any development other than sports or sports related development within this zoning objective.
- 10.1.2 Accordingly I would consider that the proposed residential development on this appeal site would materially contravene a zoning objective in the City Development Plan.
- 10.1.3 This fact was realised by the Planning Department who sought to materially contravene the City Development Plan in accordance with Section 34(6) of the Planning and Development Act, 2000 (as amended), however the elected members rejected the proposal.
- 10.1.4 Section 37 (2) (b) of the 2000 Planning and Development Act applies. This states "*Where a planning authority has decided to*



*refuse permission on the grounds that a proposed development materially contravenes the development plan, the Board may only grant permission in accordance with paragraph (a) where it considers that:*

- *the proposed development is of strategic or national importance, or*
- *there are conflicting objectives in the development plan, or the objectives are not clearly stated, insofar as the proposed development is concerned, or*
- *permission for the proposed development should be granted having regard to the regional planning guidelines for the area, guidelines under section 28, policy directives under section 29, the statutory obligations of any local authority in the area, and any relevant policy of the Government, the Minister or any Minister of the Government, or*
- *permission for the proposed development should be granted having regard to the pattern of development, and permissions granted, in the area since making of the development plan.”*

10.1.5 In light of the provisions of the Planning and Development Act 2000, as amended, the first issue to be determined by the Board, with regard to this appeal, is whether it considers that the development comes within any of the four exceptions provided for in this Section, as outlined above.

10.1.6 The following paragraph will deal with the four exceptions listed in Section 37 (2)(b), in turn, to see whether they are relevant to the subject appeal. If they do apply, then the Board, if they consider the case favourable, can grant permission, however if they do not apply then the board is precluded from granting permission.

- the proposed development for 14 no. residential units is not of strategic or national importance
- I have outlined above the relevant provisions of the City Development Plan. In so far as the proposed development is concerned, I do not consider that there are conflicting objectives nor that the objectives are not clearly stated. In my reading of the Cork City Development Plan, the objectives in relation to lands zoned ZO13 are quite clear.
- It is national guidance in accordance with the ‘Sustainable Residential Development in Urban Areas, 2009’, to promote and encourage higher residential densities where appropriate, i.e. within close proximity to cities and towns. The area in which the

subject site is located is characterised by an area of relatively low density housing, which generally comprises of two-storey housing. I would note the location of the appeal site is within a built up area with established services and amenities including public transportation along the South Douglas Road. I would acknowledge that the appeal site is located within a 25 minute walk to Cork City Centre and to Douglas. Although the subject site is currently vacant and would offer a sustainable location for residential development there are no available guidelines in relation to residential development on sites zoned for sports grounds. Therefore I would not consider that there is an obligation on the Board to grant permission having regard to the National Guidelines or policy directions.

- There is no evidence that permission should be granted having regard to the pattern of development and permissions since the making of the last City Development Plan. Accordingly, I am of the opinion that there are no considerations in this case that would justify permission being granted on the basis of the pattern of development in the vicinity, and permissions granted, since the adoption of the Development Plan.

10.1.7 The proposed residential development would materially contravene a zoning objective in the Cork City Development Plan, 2015 – 2021. I therefore conclude, having reviewed the detailed criteria set out in Section 37 (2)(b) of the Act, that there would not be any material grounds by which the Board could justify a grant of permission in this case. In conclusion therefore I would concur with the Local Authority refusal reason.

## **10.2 Standard of Residential Amenity**

10.2.1 I would acknowledge that the City Development Plan provides guidance in relation to minimum floor areas, public and private open space provision and car parking provision for residential development.

10.2.2 As the current application before the Board seeks an outline planning permission much of the detail in relation to residential amenity standards submitted with the planning application are indicative and therefore generally absent from any conclusive assessment.

10.2.3 However in terms of the proposed layout the rear gardens of the proposed houses would indicate relatively short back gardens, i.e. lengths of 7.3 metres and 8 metres. The rear gardens for the proposed houses are east facing and given their relative short lengths are likely to be potentially in shade or overshadowed by the proposed houses given their two-storey height and orientations. The proposed rear gardens would therefore offer a

poor form of residential amenity for future occupants. The established rear gardens in the local area have average lengths of 10 – 15 metres. The submitted observation argues that the proposed development would result in overlooking given that the minimum separation distance of 22 metres is not achieved. I would acknowledge, on the basis of the submitted plans, that in some instances this minimum separation distance of 22m will barely be achieved.

- 10.2.4 The proposed development includes no public open space provision and the Cork City Development Plan normally requires public open space for housing developments in the order of 10%. However paragraph 16.19 and 16.20 of the City Development Plan sets out exceptional circumstances where public open space is not required for some small housing developments. One of the exceptional circumstances relates to a good standard of private open space provision.
- 10.2.5 The overall size of the proposed rear gardens generally exceed 60 sq. metres However I would note that Table 16.7 of the Cork City Development Plan, 2015 – 2021, recommends a private open space provision of 60 – 75 sq. metres for detached / semi-detached houses in suburban areas. The proposed individual houses would generally be at the lower end of this recommendation.
- 10.2.6 In relation to car parking provision the appeal site is located within Zone 3 in accordance with Figure 16.1 of the Cork City Development Plan, 2015 – 2021. The required car parking provision for the 10 no. houses is 22.5 spaces and the required car parking for 4 no. apartments would be 8 spaces amounting to 30.5 spaces. Overall I would consider that the overall car parking provision is acceptable and this is also the conclusion in the report by the Transportation and Mobility Division of Cork City Council.
- 10.2.7 I would note that the observer submits there are inadequate details in relation to hedging and landscaping however details in relation to boundary treatment and landscaping can be clarified at full permission stage.
- 10.2.8 Overall I would be concerned with the standard of residential amenity on offer for future occupants given the limited amount of private open space provision and the absence of any public open space provision. On this basis I would not consider that the proposed development would be considered an exceptional circumstance in accordance with Paragraph 16.19 and 16.20 of the Cork City Development Plan, 2015 - 2021.

### **10.3 Other Issues**

- 10.3.1 I note that the reports from Irish Water and the Drainage Division recommend additional information is sought in relation to the capacity of the existing foul drainage system to accommodate the proposed development and details of connections.
- 10.3.2 I would consider that should the Board favour granting permission, that this issue could be dealt with by the issuing a Section 132 Notice to the applicant requesting him address this issue. Having regard to the substantial issues outlined above I would not recommend that the Board seek a Section 132 Notice at this juncture.

### **11.0 RECOMMENDATION**

I have read the submissions on the file, visited the site, had due regard to the development plan and all other matters arising. I recommend that planning permission be refused for the reasons set out below.

#### **REASONS AND CONSIDERATIONS**

1. The site of the proposed residential development is zoned 'ZO13' in the Cork City Council Development Plan, 2015 – 2021, where the objective is 'to protect, retain and enhance the range and quality of sports facilities and grounds'. In this land-use zoning there will be a presumption against the loss of land zoned sports ground to other forms of development and only development that is ancillary to the principle use for the site for sports and which will only affect lands incapable of forming playing pitches, will be considered in these areas. The proposed development would therefore materially contravene Zoning Objective 'ZO13' of the Cork City Development Plan, 2015 – 2021, and would be contrary to the proper planning and sustainable development of the area.
2. The proposed development by virtue of inadequate provision of public open space and unacceptable levels in relation to private open space provision would be contrary to the Cork City Development Plan, 2015 – 2021, and the DoEHLG Guidelines 'Sustainable Residential Development in Urban Areas, 2009, and would set an undesirable precedent for similar type of development in the area. The proposed development would therefore set an undesirable precedent in the area, seriously injure the residential amenity of the area and would, therefore be contrary to the proper planning and sustainable development of the area.

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Kenneth Moloney  
Planning Inspector  
25<sup>th</sup> October 2016