



An  
Bord  
Pleanála

## Inspector's Report PL04.247006

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<b>Development</b>	Demolish dwelling and construct restaurant
<b>Location</b>	Eastgrove, Carrigaline Road, Douglas, Co. Cork.
<b>Planning Authority</b>	Cork County Council
<b>Planning Authority Reg. Ref.</b>	16/4016
<b>Applicant(s)</b>	Irish View Investment Ltd
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant subject to 36 Conditions
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Kieran Coughlan Liam Edwards Billy Mackesy
<b>Observer(s)</b>	Noel O'Donovan & Others An Taisce
<b>Public Representative</b>	Cllr Marcia Dalton
<b>Date of Site Inspection</b>	3 <sup>rd</sup> November 2016
<b>Inspector</b>	Mary Crowley

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## 1.0 Site Location and Description

- 1.1. The appeal site with a stated area of 0.11 ha is located in the Cork suburb of Douglas and is accessed via the old Carrigaline Road in the south of Douglas Village close to the junction with East Douglas Road. One way traffic in a south-north direction, only, is permitted on the road. There is a taxi rank and paid on-street parking on the opposite side of the road to the site. Access to the car park serving Barry's pub is to the north on the opposite side of the road.
- 1.2. The existing two storey dwelling is centrally positioned on the site with the remainder laid out as garden. The house appears to be vacant. The site is bounded by a two storey dwelling to the north which fronts onto East Douglas Street and which is operated as a Bed and Breakfast (Riverview). The shared boundary with the site is delineated by a stone wall. The 3 storey apartment block bounds the site to the south with the shared boundary again delineated by a wall. Further south again is an office building. Tramway Terrace which is a terrace of single storey buildings, all in commercial use, back straight onto the site. A hedgerow delineates part of the shared boundary with the remainder open to the site. The front boundary is delineated by a stone wall and hedgerow. Site ground levels are relatively flat and set above the level of the cottage type structures to the rear.
- 1.3. A set of photographs of the site and its environs taken during the course of the site inspection is attached. I would also refer the Board to the photographs available to view throughout the appeal file.

## 2.0 Proposed Development

- 2.1. This is an application for permission for development comprising the demolition of an existing two storey dwelling house (180 sqm), front boundary structures and vehicular access, and construction of a single storey restaurant with service attic (198 sqm), car parking, new vehicular access and all associated site works. The appeal site is located within an Architectural Conservation Area. The scheme will be served by a new connection to the public water mains and the sewer. The proposed surface water disposal will be by means of a soak pit.

- 2.2. The planning application was lodged with the Planning Authority on the 11th January 2016 was accompanied by a Planning Support Statement, Planning Consultant Report, Engineers Report, Noise impact Assessment, Odour Management Plan, Conservation Assessment of the proposed scheme and a Visual Assessment Photomontages.
- 2.3. Further information was submitted on 16th June 2016 and was accompanied by the following:
- Traffic & Transport Assessment
  - Traffic & Transport Report referenced in the application documentation which does not appear to have been submitted
  - Details of proposals to prevent traffic queuing and reversing onto the public road from the development
  - Details of proposals for the servicing of the site in terms of deliveries and waste collection so as not to interfere with traffic movements on the single lane fronting the site
  - Large scale detailed drawings showing (1) method for facilitating vehicular access to the site while maintaining pedestrian priority on the public footpath fronting the site, (2) physical measures to ensure that pedestrian safety on the public footpath fronting the site is not impacted upon by vehicular movements associated with the development and (3) measure to prevent vehicles mounting / paring on the public footpath fronting the site.

## 3.0 Planning Authority Decision

### 3.1. Decision

Cork City Council issued notification of decision to grant planning permission subject to 36 conditions. Conditions of note and relevant to this appeal are summarised as follows:

**Condition No 2:** The proposed structure shall be used solely as a restaurant as per the documentation submitted to the Planning Authority on the 11/01/16 and no change of use shall take place without benefit of a further planning permission,

notwithstanding the exempted development provisions of the Planning & Development Regulations (2001, as amended).

**Condition No 35:** Special Development Contribution of €10,000

**Condition No 36:** Development Contribution of €9696.06

## 3.2. Planning Authority Reports

### 3.2.1. Planning Reports

- There are several **Planning** reports on file. Further information was sought on 4th March 2016. The request was based on the report of Traffic and Transport Unit (24th February 2016). In the final report of 11<sup>th</sup> July 2016 it is recommended that planning permission be granted subject to 36 conditions. The notification of decision to grant planning permission issued by Cork City Council reflects this recommendation.

### 3.2.2. Other Technical Reports

- The **Environment Section** (28th January 2016) has no objections subject to conditions as set out in their report.
- The **Area Engineer** (5th February 2016) requests the submission of the Transport and Transportation Report mentioned in the application. Having considered the further information submitted the Area Engineer (8th July 2016) stated that while the development may not have a significant impact in terms of overall traffic in Douglas Village, it will focus traffic both construction and operations on a narrow section of road which is not adequate in surface to cope with additional traffic without improvement works and therefore it was recommended that the levy of Special Contribution of €10,000 towards Road Improvement works be applied.
- The **Heritage Unit** (24th February 2016) stated that, as identified by An Bord Pleanála the particular design approach, the site layout and positioning of the building fails to develop and reinforce the vibrancy of the village location, and site which is located in an Architectural Conservation Area. Therefore, the Heritage Unit requested (1) revised design approach and layout that is responsive to the wider environment and is more reflective of a village setting

than an urban core and (2) greater consideration of the visual impact particularly from the Tramway Terrace in any redesign. In a further report of 12th July 2016 the Heritage Unit having considered the further information submitted stated that due to continuing workload issues they were unable to respond to the further information submitted but added that their recommendations were not sought in the formal request for further information.

- The **Traffic and Transport Unit** (24th February 2016) state that they have significant concerns regarding the traffic and road safety implications and that it would be much more acceptable if it did not incorporate any parking on site or any vehicular *movements into or leaving the site given the potential pedestrian safety issues that these movements give rise to*. Requested further information.
- Having considered the further information submitted the **Traffic and Transport Unit** (6<sup>th</sup> July 2016) state that they have no objection to grant permission subject to a condition requiring compliance with the further information submitted.

### 3.3. Prescribed Bodies

- The HSE (5th February 2016) requested that that additional information be provided in relation to details on the proposed layout and design of the kitchen / food preparation area. Irish Water (9th February 2016) has no stated objection to the scheme.

### 3.4. Third Party Observations

- 3.4.1. There are numerous objections / observations recorded on the planning file from (1) Billy Coleman, (2) John O'Sullivan, (3) Margaret Morris, (4) Liam O'Driscoll, (5) Kieran Lane, (6) Noel O'Donovan, (7) Henry Cummins, (8) Denis Carroll, (9) Martina O'Hara, (10) Tom Stout, (11) Bill Mackesy, (12) Sean Kavanagh, (13) Paula O'Driscoll, (14) Pawel Horyza, (15) Bridget Dineen, (16) Terry O'Connell, (17) John Corcoran, (18) Cllr Marcia D'Alton, (19) Pdraig Edwards, (20) Jeremiah, Kieran & Sinead Coughlan, (21) Liam Edwards (x 2) and (22) Dr Edmund J Donovan.

3.4.2. The issues raised relate to the following; the planning history pertaining to the site, the traffic and transportation report could not be assessed, no substantial changes from that which was previously refused by the Board, concern that a takeaway and drive through could be introduced in the future, traffic congestion, emergency services access may be impeded, scheme will detract from the amenity, vitality and character of the area, site is more suitable for residential or offices, the nature and extent of the scheme, scale of commercial activity proposed, visually dominant in the ACA, fails to acknowledge the NIAH status of the adjacent Riverview B& B, there was no local objections to the drive through in the Douglas Shopping Centre, Carrigaline Road is not suitable for such development, proposed revisions are tokenistic, no serious attempt has been made to address the previous reasons for refusal, impact of the proposed development on the road network has been underestimated, there are more appropriately sized, located and accessible sites on the outskirts of Douglas that this constrained, designated infill site on a one-way street, excess car parking provision, adding yet another non-retail food outlet to a village centre saturated with such outlets will not help Douglas achieve either vitality or viability, incompatibility of restaurant beside a family home, odours, noise, loss of light, the primarily residential character of the area of Old Carrigaline Road will be negatively impacted by the introduction of the proposed use and while the inspector indicated that the principle of a restaurant use in itself would be acceptable this was not referenced by the Board in their Direction and is therefore inappropriate to rely on in this new application

## 4.0 Planning History

4.1. **PL04.244123 (Reg Ref 14/4115)** – Cork County Council granted permission on this site subject to conditions for the demolition of existing house, construct restaurant with drive through and take away facilities and all associated site works at Eastgrove, Carrigaline Road, Ardarrig, Douglas, Co. Cork. This decision was appealed by a third party. The Board refused planning permission for the following three reasons as summarised:

- 1) The provision of a drive-through restaurant facility on a site located within the village of Douglas would be contrary to current development plan policies that seek to maintain the attractive characteristics of the village centre and, by actively

encouraging unsustainable vehicular movements, would detract from the amenity, vitality and character of the area.

- 2) The drive-through development would generate excessive traffic movements at this location and would result in inadequate access arrangements, which would tend to create traffic congestion and would result in obstruction of road users on the adjoining road network and would, therefore, endanger public safety by reason of traffic hazard.
- 3) The development by reason of its design and positioning on the site would be visually dominant and out of character with the pattern of existing development in the Church Street Architectural Conservation Area (ACA) and would be contrary to an objective of the current Cork County Development Plan which seeks to conserve and enhance the special character of the ACA.

## 5.0 Policy Context

### 5.1. Development Plan

5.1.1. The operative plan for the area is the Cork County Development Plan 2014 – 2020. The site is located within the development boundaries for Cork City South Environs as set out in the Carrigaline Local Area Plan (2011) and is zoned as an “existing built up area”. Section 14.3.2 Existing Built up Area of the County Development Plan states *that within the development boundaries of the main towns, in areas that are not subject to specific zoning objectives, proposals for development will be considered in relation to the following:*

- *The objectives of this plan;*
- *Any general or other relevant objectives of the relevant local area plan;*
- *The character of the surrounding area; and*
- *Other planning and sustainable development considerations considered relevant to the proposal or its surroundings*

5.1.2. The site forms part of a designated ACA namely Church Street Architectural Conservation Area. The existing B&B bordering the site to the north is afforded NIAH protection (Ref 20871038 refers).



5.1.3. The published Douglas Land Use and Transportation Strategy (DLUTS August 2013) outlines junction optimisation and public transport / pedestrian / cycle facilities improvements in the vicinity of the appeal site. According to the Local Authority Planners Report a recent Part 8 development, (as a work package (no. 8) of the DLUTS relating to traffic calming works have been carried out on stretch of public road serving the site. The upper half of East Douglas street to the north has been earmarked for significant urban design improvements. The site forms part of an identified central village radius for the implementation of traffic management measures.

## 5.2. Natural Heritage Designations

5.2.1. The site is not located within any designated Natura 2000 site. The relevant European sites are the Cork Harbour SPA (site code 004030) and the Great Island Channel cSAC (site code 001058) which are located approximately 240m to the north of the subject site.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

6.1.1. There are three **Third Party Appeals** on the file from (1) Kieran Coughlan, Abú, Knocknacurra, Kinsale, County Cork, (2) Liam Edward, River View, Douglas East, Douglas, Cork, and (3) Billy Mackesy & Others, 1 Tramway Terrace, Douglas East, Cork. The appeal by Liam Edward was accompanied by a Review of Roads and Traffic Issues prepared by NRB Consulting Engineers and a Report on the Implications of the Proposed Restaurant on the Riverview B&B (NIAH Building) and Church Street ACA. The main issues raised in these appeals may be summarised under the following general headings:

6.1.2. **Cork County Council** – Submitted that Cork City Council did not have regard to concerns raised in the third party submissions

6.1.3. **Proposed Scheme** - Other than the omission of the drive-through and take-away, the layout of the proposed restaurant is almost exactly the same as that previously refused. The development is inappropriate to its sensitive context. Submitted that

the development can easily be modified (either by way of a new permission or retention) to accommodate a drive-through element or take-away.

- 6.1.4. **Location** - Old Carrigaline Road, which the proposed development faces and from which it takes access, is a back land primarily residential street. It cannot be in the interests of the proper planning and sustainable development of Douglas Town Centre to permit a further restaurant use in a non-town centre in this context. It will undermine the town centre, and its associated planning objectives.
- 6.1.5. **Restaurant Use** - A cursory assessment of Douglas reveals that it has a pronounced oversupply of restaurant/take-away uses relative to its size. The level of vacancy of such uses confirms this point. The planning report states that the proposed development will provide an 'added dimension' to the range of local services available, however the proposed development represents a replacement of an existing fast food family restaurant in an area where there is a glut of such uses. The Board should note that the applicant's facility in St. Patrick's Woollen Mills trades as a hot food take-away only, i.e. a fast food outlet.
- 6.1.6. **Condition No 2** - The wording of Condition 2 is not precisely defined. The effect of the wording of condition 2 is that the applicant could operate an ancillary take-away and/or an ancillary drive-through without requiring planning permission. The only restriction imposed by condition 2 is that no change of use shall take place without benefit of a further planning permission.
- 6.1.7. **Residential Amenity** – Concern raised about the noise, odour, traffic and general disturbance associated with the proposed restaurant use on the amenities of the residents of the Tramway Close apartment block. Considered that the conditions attached to the permission will not be able to be enforced, particularly when there is some ambiguity over what has been granted permission. Remains unclear from the decision of the Planning Authority, relative to the information submitted by the applicant, as to whether or not there is to be a take-away.
- 6.1.8. **Noise** - It is stated that there will be a 2-metre-high timber fence to the north-east and south-east boundaries. The noise report states that this is to be of sufficient mass and thickness with no gaps on the delivery yard to retain noise. However, the Landscape Plan only references a timber fence to the south-east boundary, while the detail refers to a timber fence to both the north-east and south-east boundaries. In

addition, the type of fence shown does not appear to accord with the requirements of the noise report. In relation to noise control, it is stated that mechanical plant and equipment will be housed internally, however, there is no confirmed intention to provide noise attenuators on ducts and louvres, contrary to the assertions of the planning report.

- 6.1.9. **Odour** - In relation to the odour control, no maintenance plan is provided, and no exact details of the system is provided, contrary to the assertions of the planning report.
- 6.1.10. **Car Parking** - The internal hardstanding area is laid out as a car park of not just 5 spaces (which is already over the maximum standard for restaurants) but the potential for 10 spaces. Considered, if granted, it will in all likelihood lead to the development of a restaurant with drive-through and take-away by stealth. Excess car parking provision coupled with the ambiguity over the nature of the permitted proposed development and the increased volume of traffic has the potential to lead to a traffic hazard on the Old Carrigaline Road, for pedestrians as well as users of the taxi rank.
- 6.1.11. **Traffic Safety** - The provision of up to 10 spaces in a tight site with a single access onto a one-way traffic-calmed pedestrian priority road cannot be considered to be appropriate and will lead to a traffic hazard. The application materials provide a setback (Y) distance of 45 metres yet the relevant design standard, as set out in the Design Manual for Urban Roads and Streets (DMURS) requires a 49 metre Y distance for 50kph roads that are also bus routes, as is the case in this instance on the Old Carrigaline Road. Furthermore, the actual DMURS sightline requirement of 2.4 metres by 49 metres for this commercial development is NOT achievable as it appears to cross the adjacent third party boundary wall. It is very clear that the site or the access cannot accommodate the swept path of such a delivery vehicle in those circumstances the vehicle would be required to pull up and unload from the public road with resultant nuisance.
- 6.1.12. **LUTS** - It is contradictory of the Planning Authority to implement traffic calming measures on Old Carrigaline Road to reduce traffic congestion and increase pedestrian activity in accordance with the policies and objectives of the statutory

Douglas LUTS on the one hand, while granting permission for this car dominant development with an oversupply of car parking on a restricted site on the other.

6.1.13. **ACA** – The Conservation Report relies on the peripherality of the site in the Church Street ACA as well as its Church and graveyard character. This fails to address the special character of the ACA which it is required to enhance. The proposed development remains visually dominant from Old Carrigaline Road and from Douglas East, and remains out of character with the pattern of existing development in the Church Street Architectural Conservation Area. Submitted that the Council's Heritage Officer advice was ignored. The scheme remains visually dominant and out of the character with the pattern of existing development in the Church Street ACA, and therefore remains contrary to the provisions of the Cork County Development Plan 2014 with respect to the built heritage.

6.1.14. **Opening Hours** - The proposed operating hours are identified as 08.00 to 23.00. Deliveries are stated to take place between these hours. However, the planning report states that noise levels will not exceed 45 dB(A) after 20.00. It is unclear how such a reduction in noise can be achieved after 20.00 in these circumstances, including deliveries.

## 6.2. Applicant Response

6.2.1. The first party response to the appeal has been prepared and submitted by McCutcheon Halley Walsh on behalf of the applicant Irish View Investments Ltd. The submission may be summarised as follows:

6.2.2. **Location** - The site is already located in a mixed-use area with residential and non-residential/commercial uses including offices, retail, pubs and restaurants. Apart from the Tramway Close apartments, all of the properties adjoining the appeal site are commercial in nature. The site is also located within a short walking distance to the centre of Douglas and opposite a taxi rank, making the proposed restaurant extremely accessible by foot, bike and public transport.

6.2.3. **Waste** - The proposed family restaurant will also have an extensive waste and litter management infrastructure, with litter bins located in proximity key 'high-risk' litter spots at the entrance to the site/car park along Carrigaline Road and the entrance to the restaurant building itself. Designated members of staff will be assigned as

having key responsibility for waste/litter management of the premises, with regular (hourly) checks to ensure that litter/waste is collected and managed appropriately. All waste arising from activities on site is to be stored in the secure enclosed yard to the rear of the restaurant facility for subsequent recovery/collection by a licensed contractor. These waste/recycling storage facilities/bins shall be covered at all times when not in use and emptied regularly, to safeguard the amenities of the surrounding area. Waste management procedures will ensure that all waste at the site is managed accordingly and separated for recycling. Furthermore, all bins/receptacles will be clearly designated/colour coded and clearly and appropriately labelled for operational purposes.

- 6.2.4. **Noise & Odours** - To ensure minimal impact on adjoining properties the development include a bespoke odour management and abatement system which will be installed in the exhaust duct from the food preparation areas and kitchen so that there will be no odour or dust emissions from the development; noise levels emanating from the proposed development will not exceed 55 dB(A) between 08.00 hours and 20.00 hours, Monday to Saturday inclusive, and will not exceed 45 dB(A) (15 minute Leq) at any other time; deliveries will be carefully managed so that parking/loading/unloading of deliver/service vehicles will take place within the site and not on the public road to the front of the site.
- 6.2.5. **Design** - The scale, design and layout of the building has been revised to address the issues raised by the Board in relation to visual impact and impact on the Church Street ACA. The proposed family restaurant is single storey and the scale/height of the building increases only as the building extends southwards, away from the northern boundary. The roof/eaves along the south elevation is profiled to reduce the mass of the building and add visual interest on the approach to Douglas Village along the Carrigaline Road. The scale and height of the proposed development is therefore very modest could in no way be described as inappropriate.
- 6.2.6. **Demolition** - The principle of the demolition and replacement of the existing dwelling was previously accepted by both the Council and An Bord Pleanála under Council Ref. 14/4115 and ABP Ref. PL04244123. In his assessment of the previous scheme, the Board's Inspector noted that the existing building/site does not exhibit any significance or notifiable design, without any particular architectural or historical value.

- 6.2.7. **NIAH** - As emphasised by the NIAH, the purpose of the building survey carried out by the NIAH is to highlight a representative sample of the architectural heritage of each county. The survey does not have any statutory basis and is not in any way comparable to or bestow the equivalent or similar status of a protected structure. The proposed development is not within the curtilage of the adjoining B&B and will not have any adverse or negative impact on the structure.
- 6.2.8. **ACA** - It is submitted, that the building will not detract from the ACA; the building will not dominate its surroundings and there will be few if any views towards the site from the majority of the wider ACA. The building is well-screened and the photomontages outlined above and submitted with the planning application demonstrate that the visual impact on Tramway Terrace (to the east) will be minimal (barely perceptible to pedestrians on East Douglas Street), especially when compared to the adjoining Tramway apartment complex to the south.
- 6.2.9. **Traffic** - The proposed restaurant, which no longer includes a drive-through restaurant, is entirely sustainable from a traffic perspective and will not generate a traffic hazard. As can be seen from the TTA, there will be no significant traffic impact as a result of the proposed development; the proposed family restaurant will result in no significant additional operational traffic generation in the area; visitors to the proposed family restaurant will be facilitated entirely on-site; and the proposed development is consistent with the DLUTS objectives for enhanced provision for pedestrians on the Old Carrigaline Road with improved facilities for existing and new users. In relation to pedestrian access, this will be from the main west façade on the Carrigaline Road. It is anticipated that the majority of pedestrians will arrive from the village centre (i.e. from the north). Cyclists and vehicles will arrive from the south. The overall layout provides a safe environment for pedestrian, cyclists and motorists.
- 6.2.10. **Car Parking** - In relation to car parking, a total of 5 no. of parking spaces are proposed on site in accordance with the requirements of the Cork County Development Plan 2015 of 1.5 spaces per 10 square metres of nett dining area. In considering this appeal, the Board will also note that the senior officials, in the Planning Authority's Traffic and Transportation Department were all satisfied that the parking proposals included as part of the scheme were more than sufficient to serve the needs of the proposed development.

### 6.3. **Planning Authority Response**

- 6.3.1. There is no response to the matters raised in the appeal(s) from Cork City Council recorded on file.

### 6.4. **Observations**

- 6.4.1. There are two observations recorded on the appeal file (Section 131 response) from (1) Noel O'Donovan & Others and (2) An Taisce. Additional comments may be summarised as follows:

- Scheme is virtually the same size and in the same location as the previous development that was refused
- Development is contrary to the current development plan policies and would detract from the amenity, vitality and character of the area
- Visually dominant and out of character with the pattern of development in the Church Street ACA
- The proposed development should not impact on the character of the surrounding ACA and should adhere to objectives laid out in the Cork County Development Plan for the enhancement and preservation of architectural heritage
- Increased traffic volumes and would endanger public safety
- The recommendations of the Council Heritage Officer were ignored
- The Board should ensure that the current application successfully demonstrates that all previous issues that resulted in refusal for development on site have been resolved.

### 6.5. **Public Representatives**

- 6.5.1. Cllr Marcia Dalton made the following observations as summarised:

- This development would bring additional vehicular traffic into Douglas village. Although some of the Douglas LUTS measures have been implemented as NTA funding allows, neither the construction of a bridge nor any of the critical junction upgrades have been advanced. The village is unable to cope and

this proposal is in direct opposition to the concepts developed for East Douglas village in the Douglas LUTS.

- Potential still exists for conversion to a drive-through
- The vehicle centric ethos of the current proposal is diametrically opposed to the prioritisation of cyclists and pedestrians intended for East Douglas Village.
- To permit this development in an area already supersaturated with fast food take away and restaurant outlets would be entirely contrary to a range of government policy and national initiatives on health, healthy eating and tackling obesity

## 7.0 Assessment

7.1.1. I note the concerns raised by the appellants regarding the planning authority's consideration of the issues raised in the submissions. It is not for An Bord Pleanála to access the merits or otherwise of the Planning Authorities consideration of the scheme. For the purposes of clarity, I would point that the development proposed is considered "de novo". That is to say that the Board considers the proposal having regard to the same planning matters to which a planning authority is required to have regard when making a decision on a planning application in the first instance and this includes consideration of all submissions and reports on file together with the relevant development plan and statutory guidelines, any revised details accompanying appeal submissions and any relevant planning history relating to the application.

7.1.2. Having regard to the information presented by the parties to the appeal and in the course of the planning application, the planning history pertaining to the site and to my site inspection of the appeal site, I consider the key planning issues relating to the assessment of the appeal can be addressed under the following general headings:

- Principle / Policy Considerations
- Traffic Impact
- Design & Visual Amenity
- Residential Amenity



- Development Contribution(s)
- Screening for Appropriate Assessment
- Construction Impact & Methods

## 7.2. Principle

- 7.2.1. The Board in their previous decision on this site refused permission (PL04.244123) in the first instance as the provision of a drive-through restaurant facility within the village of Douglas would be contrary to development plan policies. The current application while similar in scale and design to the previous proposal aims to address the above reason for refusal through the omission of the drive through element of the development.
- 7.2.2. The site is located within the designated Carrigaline Local Area Plan (2011) and is zoned as an “existing built up area” and is immediately located to the east of the designated town centre (i.e. ‘TC-02’) for Douglas. Section 14.3.2 Existing Built up Area of the County Development Plan states that within the development boundaries of the main towns, in areas that are not subject to specific zoning objectives, proposals for development will be considered in relation to the following:
- The objectives of this plan;
  - Any general or other relevant objectives of the relevant local area plan;
  - The character of the surrounding area; and
  - Other planning and sustainable development considerations considered relevant to the proposal or its surroundings
- 7.2.3. The surrounding area offers a diverse mix of uses, including retail, residential, restaurant and open space. In the previous appeal (PL04.244123), the Board’s Inspector was satisfied that the principle of a restaurant on the site was acceptable. The current proposal related to the proposed relocation of an existing use. As pointed out by the Local Authority Planner in their report there is no existing policy in the County Development Plan or the Local Area Plan which precludes this form of use at his location. I am satisfied that the acceptability of the proposed restaurant use is supported by the 2011 Local Area Plan (LAP) for the Carrigaline Electoral Area. Having regard to omission of the drive-thru element of the scheme in the appeal now before the Board together with the location of the site and the zoning objectives for the site I considered that the development proposed is an appropriate use.
- 7.2.4. The proposed development includes the demolition of the existing uninhabited two storey dwelling on site. The building is not a protected structure however it is located

within an Architectural Conservation Area. The application was accompanied by a Conservation Report where it is stated that the *house and associated site do not enrich or enliven the Church Street Conservation Area; their visual contribution to the street is, at best, neutral.* I also refer to the previous Inspectors report (PL04.244123), that stated that “*notwithstanding the ACA designation the immediate area of the appeal site does not exhibit any notifiable unifying design and that the detached dwelling on the site whilst having an innate quality is not of particular regard as to warrant protected structure status.*” Overall I consider the building to be demolished is of little architectural merit either in its own own right or in terms of its contribution to the visual amenity of this Architectural Conservation Area, and I have no objection to the proposed demolition of same.

- 7.2.5. Overall I am satisfied that the proposed use accords with the policies for the area as set out in the County Development Plan and the Local Area Plan. I consider the proposed scheme at this location to be acceptable in principle subject to the acceptance or otherwise of site specifics / other policies within the development plan and government guidance.

### 7.3. **Traffic Impact**

- 7.3.1. Concern raised in the appeals and observations regarding the impact from traffic generated together with the provision of inadequate car parking are noted. The Board in its previous refusal set out that the drive-through development would generate excessive traffic movements at this location and would result in inadequate access arrangements, which would tend to create traffic congestion and would result in obstruction of road users on the adjoining road network and would, therefore, endanger public safety by reason of traffic hazard.
- 7.3.2. The applicant submits that the removal of the drive-thru and takeaway facility and the restriction of the proposed uses as a sit down family restaurant only greatly reduces the intensity of use and vehicular traffic to the site. Based on the information provided by way of further information, the Traffic and Transport Unit had no objection to the proposed development subject to conditions.
- 7.3.3. In relation to the site layout, as the drive-through facility has been removed and the circulation/car parking area has been dramatically reduced, a significant proportion of the site is now reserved for landscaping/amenity use and the layout of the

development now comprises a more modest and pedestrian orientated environment. A reduced car parking area with 5 no. car parking spaces has been provided together with cycle parking. Stated that vehicles will exit the site adjacent to the building's southern façade, which has a high level of glazing to allow maximum visibility at this corner for pedestrians along the Carrigaline Road.

- 7.3.4. Having regard to the information available with the appeal file I am satisfied that the scheme will not have a significant impact and that the adjacent road network has the capacity to accommodate the proposed development. In conclusion I do not consider that the proposed development will give rise to a traffic hazard.

#### **7.4. Design & Visual Amenity**

- 7.4.1. The Board in their previous decision on this site refused permission (PL04.244123) by reason of its design and positioning on the site. It was considered that the scheme would be visually dominant and out of character with the pattern of existing development in the Church Street Architectural Conservation Area (ACA) and would be contrary to an objective of the current Cork County Development Plan which seeks to conserve and enhance the special character of the ACA.

- 7.4.2. As set out previously the site is within the Church Street Architectural Conservation Area where the objective to conserve and enhance the special character of the ACAs. The special character of an area includes its traditional building stock and material finishes, spaces, streetscape, shop fronts, landscape and setting. This is to be achieved in a number of ways including:

- Ensuring new development within or adjacent to an ACA respects the established character of the area and contributes positively in terms of design, scale, setting and material finishes to the ACA.
- Protection of structures from demolition, non-sympathetic alterations and the securing of appropriate infill developments

- 7.4.3. The Heritage Unit of the Local Authority requested (1) revised design approach and layout that is responsive to the wider environment and is more reflective of a village setting than an urban core and (2) greater consideration of the visual impact particularly from the Tramway Terrace in any redesign. However, it is noted that their recommendations were not sought in the formal request for further information.

7.4.4. I have considered the previous scheme (as amended) that was refused together with the current scheme before the Board. In terms of the design now before the Board it is noted that there has been a minor reduction in the scale of the proposed restaurant building, the street elevation on to the Carrigaline Road has also been revised with the addition of limestone (in lieu of glazing) on the western/Carrigaline Road façade together with a modification of the roof profile. However, the proposal now being considered is essentially the same building, save for amendments noted, as that previously refused by the Board. While I agree with the Planning Authority that a modern design approach is not out of keeping with the site context having regard to the surrounding building mix. However, the scheme now being considered is in my view akin to a repeat application that was contextually misguided in the first instance. I am not satisfied that the design response has adequately addressed the previous reason for refusal.

7.4.5. Overall I agree with the Heritage Officer and the previous Inspector that *the particular design approach, the site layout and positioning of the building fails to develop and reinforce the vibrancy of the village location, and site which is located in an Architectural Conservation Area.* Refusal is recommended.

## 7.5. Residential Amenity

7.5.1. The concerns raised regarding impact to adjoining properties is noted. The application was accompanied by a Noise Impact Statement that stated that the potential for noise nuisance was not considered significant and that the proposed development can operate within usual noise limit values, and will not add significantly to the existing ambient noise levels. The report concluded that the *“noise impact of the proposed development will not contribute significantly to the existing ambient noise environment of the area”*. Further a detailed Odour Management Plan was submitted that included abatement measures. The report concluded that *the proposed plan would ensure that there would be no discernible odour from the restaurant beyond the boundary of the premises.*

7.5.2. Having regard to the reports on file, the design and scale of the scheme together with the location of the site I am satisfied that the proposal is within the acceptable relevant parameters and will not have an unacceptable undue negative impact on residential amenity by reference to noise or odours. In conclusion I consider

therefore that the development would not result in a significant impact on the residential amenity or any other property that would justify refusing permission on these grounds.

#### **7.6. Screening for appropriate Assessment**

- 7.6.1. Having regard to the nature and scale of the proposed development, the nature of the receiving environment and proximity to the nearest European site (Cork Harbour SPA (site code 004030) and the Great Island Channel cSAC (site code 001058)), 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, individually and in combination with other plans or projects would not be likely to have a significant effect on any European site. An appropriate assessment (and submission of a NIS) is not therefore required.

#### **7.7. Construction Impact & Methods**

- 7.7.1. It is acknowledged that there are significant construction works required to facilitate this development and that there will be general disruption in the area in terms of construction related noise and general disturbance during the construction phase. However, while this impact is considered an inconvenience it is also considered to be short term in nature and therefore acceptable. I am satisfied that this matter can be addressed by way of suitable condition. The attachment of a construction management condition notwithstanding it falls to the relevant Planning Authority to ensure the developer complies with these conditions and that there is no unreasonable disturbance or loss of amenity associated with construction activities.

#### **7.8. Development Contribution(s)**

- 7.8.1. **Section 48 Development Contribution** – Condition No o 36 of the notification required the payment of a Development Contribution in the amount of €9696.06. this condition has not been appealed. Cork City Council has adopted a Development Contribution Scheme under Section 48 of the Planning and Development Act 2000 (as amended) and is in place since 14th October 2013. Section 1.7 Exemptions and Reduction sets out the categories of development which will be exempted from the requirement to pay a development contribution under the scheme. The proposed scheme is not exempted from the payment of a Section 48 Development Contribution. I recommended that should the Board be minded to grant permission

that a Development Contribution condition is attached requiring the payment of €9696.06.

7.8.2. **Section 48(2)(c) Special Development Contribution** - Condition No 35 of the notification of a Special Development Contribution in the amount of €10,000 for the repair of the public road from damage likely to be caused in the construction and operation of the proposed facility. This condition has not been appealed. This is based on the report and recommendation of the Area Engineer where it states that *while the development may not have a significant impact in terms of overall traffic in Douglas Village, it will focus traffic both construction and operations on a narrow section of road which is not adequate in surface to cope with additional traffic without improvement works* and therefore it was recommended that the levy of Special Contribution of €10,000 towards Road Improvement works be applied. Overall I am satisfied that Condition No 35 is precise and clearly outlines the particular works to be carried out by the local authority to facilitate the development and that a clear determination can be made as to whether the Planning Authority has spent any of the money collected and whether or not the specific works have commenced within five years of the date of payment or if the works have been completed within 7 years of the payment to the authority of the contribution. I recommended that should the Board be minded to grant permission that a Special Development Contribution condition is attached requiring the payment of €9696.06 for these specific exceptional costs as they are in my view over and above those, which were envisaged in the Cork County Council Development Contribution Scheme.

7.8.3. **Section 49 Supplementary Development Contribution** - In relation to the Section 49 Supplementary Development Contribution Schemes (re-opening of an operation of suburban rail services on the Cork to Middleton line; provision of new rail services between Blarney and Cork and the upgrading of rolling stock and frequency on the Cobh rail line as demand increases) it is noted that the subject site is located outside the catchment area of these projects (1km corridor) and therefore the Section 49 scheme is not applicable in this case.

## 7.9. Conclusion

7.9.1. The proposed restaurant use is entirely appropriate for the site and is fully consistent with the Council's objectives for the area. The proposed restaurant will not have a

negative impact on the residential amenities of the area. The proposed restaurant, which no longer includes a drive-through restaurant, is acceptable from a traffic perspective and will not generate a traffic hazard. However, scale, design and layout of the building has not addressed the Boards previous reason with the result that the proposed scheme will have a negative visual impact on the Church Street Architectural Conservation Area. Refusal is recommended.

## 8.0 Recommendation

8.1. Having considered the contents of the application, the provision of the Cork County Development Plan 2014 – 2020, the Carrigaline Local Area Plan (2011) and the provisions of government guidance, the grounds of appeal and the responses thereto, the planning history pertaining to the site, my site inspection and my assessment of the planning issues, I recommend that permission be **REFUSED** for the reasons and considerations set out below.

## 9.0 Reasons and Considerations

9.1. It is considered that the proposed development by reason of its design and positioning on the site would be visually dominant and out of character with the pattern of existing development in the Church Street Architectural Conservation Area and would be contrary to an objective of the current Cork County Development Plan which seeks to conserve and enhance the special character of the Architectural Conservation Area, which objective is considered to be reasonable. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

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**Mary Crowley**

**Senior Planning Inspector**

**9<sup>th</sup> December 2016**