



An
Bord
Pleanála

Inspector's Report PL28.248734

Development	Permission for the construction of 9 dwellings and all associated site works.
Location	Boherboy Road and North Ring Road, Mayfield, Cork
Planning Authority	Cork City Council
Planning Authority Reg. Ref.	16/37184
Applicant(s)	Javcon Ltd
Type of Application	Permission
Planning Authority Decision	Grant
Type of Appeal	Third Party
Appellant(s)	Mayfield East Community Association Tom & Marian Considine
Observer(s)	None
Date of Site Inspection	5 th October, 2017
Inspector	A. Considine

1.0 Site Location and Description

- 1.1. The appeal site is located to the north eastern area of Cork City, and on a corner site which has boundaries along the North Ring Road to the west and Boherboy Road to the north. There are access points to the site from both roads. The property has in the past, been included on the derelict sites register and the previous detached dwelling and commercial unit on the site have been demolished.
- 1.2. The area is predominantly residential in nature, with some commercial developments located to the North, including Mayfield Shopping Centre. The site slopes gently down from the Boherboy Road boundary towards the Silverheights Road, in north to south direction with an existing level difference of approximately 3m. The site is located above the level of the North Ring Road and the east to west direction level difference is approximately 1.5m. The site has a stated area of 0.1422ha.
- 1.3. There are a variety of house types in the vicinity. There are existing detached houses located to the east of the site, with a detached two storey house located immediately adjacent, to the east of the site. There are semi-detached houses to the south and terraced houses to the north. To the south of the site, the property is bound by nos 1 and 3 Silverheight's Road which comprise two storey, gable fronted houses at a lower level to the subject site.

2.0 Proposed Development

- 2.1. The application to Cork City & County Council was for permission to construct 9 no. dwellings including all associated site works on the site. The development will provide for a terrace of 8 town houses and 1 detached dwelling.
- 2.2. Accommodation in the houses will be provided over three floors and will include three bedrooms. The proposed layout will provide access to the site via Boherboy Road with the rear gardens to back onto the North Ring Road. A shared surface is proposed to the east to include 9 car parking spaces.
- 2.3. The development will be finished with a wet dash painted render with tile / brick details. Windows will be double / triple glazed timber with aluminium factory finish are proposed. The roof will be concrete roof tiles with aluminium trim and gutters and downpipes will also be aluminium.

2.4. Following the response to the further information request, it is advised that Respond! Housing Association is in discussions with regard to the proposed development. In this regard, Respond will manage the development. A Japanese Knotweed report was also submitted to the Planning Authority.

3.0 **Planning Authority Decision**

3.1. **Decision**

Following the submission of response to the further information request, the Planning Authority decided to grant planning permission for the proposed development, subject to 28 conditions, including the following:

Condition 6: lodgement of a bond

Condition 7: requires details of a legally incorporated management company

Condition 8: requires that the Stage 1/2 Road Safety Audit be agreed with Cork City Council and that a Stage 3/4 Road Safety Audit be undertaken

Condition 12: management and disposal of waste

Conditions 15 to 25: deal with drainage issues.

Condition 23: requires clarification with respect to the management / taking in charge of the development.

Condition 27: development contribution of €60,116.25

Condition 28: special development contribution of €5,000 for junction alterations at Boherboy Road.

3.2. **Planning Authority Reports**

3.2.1. Planning Reports

The Planning Officers report noted that pre-planning consultation took place and noted that four third party objections were submitted in relation to the proposed development. Following receipt of the response to the further information request, the planning report formed the basis for the planning authority's decision to grant

permission. Appropriate Assessment and Environmental Impact Assessment are also dealt with within the report.

3.2.2. Other Technical Reports

Drainage Section: Further information required. The response to the further information request addressed issues raised. No objection subject to compliance with conditions.

Road Design: Further information required. The response to the further information request addressed issues raised. No objection subject to compliance with conditions. The recommended conditions require the payment of a special development contribution in the amount of €5,000 for junction alterations at Boherboy Road as well as a requirement for a management company to be incorporated for the future maintenance of the services.

Transport & Mobility Section: Further information required. The response to the further information request addressed issues raised. No objection subject to compliance with conditions.

Environment Section: No objection subject to compliance with conditions.

Development Contribution Memo: Condition to be included.

3.3. Prescribed Bodies

Irish Water: Further information required regarding the submission of a detailed watermain layout.

3.4. Third Party Observations

There are four third party submissions noted on the Planning Authority's file as follows:

3.4.1. Tony McGrath:

- There is evidence of Japanese Knotweed on the site – photographs included. It is requested that this matter be dealt with in the assessment of the application.

3.4.2. Cllr. Tim Brosnan:

- Inadequate car parking in the area

- Congestion in the area.
- The development relies on neighbouring hedge to act as boundary screen. As this hedge may be removed in the future, a proper solution should be found to prevent overlooking.
- While development is welcomed, concern is raised regarding the density.

3.4.3. Tom Considine & Marion Considine:

- The previous commercial unit and house on the site were demolished without permission in c. April 2016.
- The entrance to the site from Boherboy Road was for the shop unit.
- The development has not had proper regard to Chapter 16 of the City Development Plan.
- Roads & traffic issues
- Overlooking and overshadowing issues
- No regard to existing densities within the locality.
- The houses are technically three storey, not 2.5 storey.
- Issues raised in relation to the design statement submitted with the application.
- The presence of Japanese Knotweed has not been addressed
- The development does not comply with the City Development Plan in terms of density, open space provision, car parking and design.
- The Primary Care Centre previously permitted for the site is not comparable.
- The massing and scale is not sympathetic or courteous to its residential neighbours.

3.4.4. Eddie Carey:

- Adverse effects on the residential amenity of neighbours
- Unacceptable high density and overdevelopment of the site.
- Visual impacts
- Effects on the character of the neighbourhood.

- Impacts on highway safety or convenience of road users.

4.0 Planning History

4.1. The following is the planning history associated with the subject site:

- 4.1.1. **TP06/31430:** Permission granted by CCC for the demolition of existing dwelling and derelict workshop and construction of a pharmacy and personal health pavilion at ground floor and group medical centre at ground and first floor with small associated staff area at second floor and two no. two storey dwellings all over basement car park with new vehicular access ramp from Boherboy Road.
- 4.1.2. **TP08/33550:** Permission granted by CCC for amendment and enlargement of the medical centre and associated facilities previously granted permission (T.P 06/31430), and vehicular access for a basement car park for 66 cars.

5.0 Policy Context

National Policy / Guidelines

- 5.1. **Sustainable Residential Development in Urban areas, Guidelines (DoEHLG, 2009):**
- 5.1.1. These statutory guidelines update and revise the 1999 Guidelines for Planning Authorities on Residential. The objective is to produce high quality – and crucially – sustainable developments:
- quality homes and neighbourhoods,
 - places where people actually want to live, to work and to raise families, and
 - places that work – and will continue to work - and not just for us, but for our children and for our children's children.
- 5.1.2. The guidelines promote the principle of higher densities in urban areas as indicated in the preceding guidelines and it remains Government policy to promote sustainable patterns of urban settlement, particularly higher residential densities in locations which are, or will be, served by public transport under the *Transport 21* programme.

5.1.3. Section 5.6 of the guidelines suggest that there should be no upper limit on the number dwellings permitted that may be provided within any town or city centre site, subject to the following safeguards:

- compliance with the policies and standards of public and private open space adopted by development plans;
- avoidance of undue adverse impact on the amenities of existing or future adjoining neighbours;
- good internal space standards of development;
- conformity with any vision of the urban form of the town or city as expressed in development plans, particularly in relation to height or massing;
- recognition of the desirability of preserving protected buildings and their settings and of preserving or enhancing the character or appearance of an Architectural Conservation Area; and
- compliance with plot ratio and site coverage standards adopted in development plans.

5.2. **Design Manual for Urban Roads and Streets (DEMURS), DoTTS, March 2013**

In terms of the design of the proposed development, including the entrance and access to the site, it is a requirement that they be considered against the Design Manual for Urban Roads and Streets (DEMURS), DoTTS, March 2013. This Manual replaces DMRB in respect of all urban roads and streets and it does not differentiate between public and private urban streets, where a 60kph speed limit or less applies. The implementation of DMURS is obligatory and divergence from same requires written consent from relevant sanctioning authority (NRA, NTA or DTT&S). The Manual seeks to address street design within urban areas (i.e. cities, towns and villages) and it sets out an integrated design approach.

5.3. **Development Plan:**

5.3.1. The Cork City Development Plan 2015 – 2021 is the statutory Development Plan for the city of Cork. The subject site is located within an area of Cork City which is zoned ZO4, Residential, Local Services and Institutional Uses, where it is the stated

objective of the zoning to 'protect and provide for residential uses, local services, institutional uses and civic uses, having regard to employment policies.

- 5.3.2. Chapter 6 of the City Development Plan deals with Residential Strategy and provides details in relation the relevant housing objectives, Joint Housing Strategy, social housing & Part V requirements as well housing demand and supply issues.
- 5.3.3. Chapter 16 of the City Plan deals with Development Management and Part B of Chapter 16 deals with Urban Design and provides guidance in terms of design & layout, density, plot ratio and public open spaces amongst others. Section 16.20 of the Plan advises that 'Gated (semi-private) developments are not considered an appropriate development type in the city (see Objective 16.5) and therefore semi-private open space should be provided as part of private space provision for residential (or other) development. On minor streets and spaces safe, well designed shared surface play streets and courtyards may also be considered as fulfilling or part-fulfilling the overall requirement for public open space in the case of residential developments.
- 5.3.4. Part C of Chapter 16 deals with Residential Developments and Sections 16.40-16.42 deal with Residential Density, Sections 16.43-16.45 deal with Dwelling Size Mix, Section 16.46 deals with Residential Design, Section 16.49 with New Residential Developments, Sections 16.60-16.64 with Open Space Requirements with Table 16.6 providing guidance in relation to Residential Public Open Space Provisions and Section 16.71 deals with naming of estates. Part G of Chapter 16 of the Plan deals with Car & Cycle Parking Requirements for Development Management.

5.4. **Natural Heritage Designations**

The subject site is located at a distance of approximately 2km to the west of the nearest Natura 2000 site, being the Cork Harbour SPA, Site Code 004030. The site is not located within any designated site.

6.0 **The Appeal**

There are two third party appeals from the Mayfield East Community Association and Tom and Marian Considine.

6.1. Grounds of Appeal

6.1.1. Mayfield East Community Association:

The grounds of appeal are summarised as follows:

- The development has not been dealt with in accordance with relevant planning legislation or the City Development Plan.
- The site layout includes an area of the neighbouring land.
- Issues of unauthorised development on the site including the demolition of structures without planning permission.
- Japanese Knotweed on the site was removed from the site and the matter has not been dealt with.
- The Planning Authority failed to include the planning application on its online map viewer system.
- The application is deficient.
- The density of the development is excessive.
- Lack of services to accommodate further housing and three storey housing developments are not appropriate for the area. There are no public parks or playgrounds in the vicinity.
- Roads and traffic issues including lack of parking.
- The Special Development Contribution should be of a level that almost guarantees completion of the upgrade works of the Boherboy Road junction.
- Lack of consideration of bin storage and refuse collections.
- Visual impacts associated with the development and overlooking of adjacent properties.

6.1.2. Tom and Marian Considine:

The grounds of appeal are summarised as follows:

- The development site includes an area of appellants property.
- Roads and traffic issues.

- Non-compliance with the Cork City Development Plan.
- Lack of public or communal open space.
- Deficient private open space provided.
- Boundary wall is limited and in poor condition. A retaining wall will have to be provided to a minimum height of 2.5m along the boundary.
- Presence of Japanese Knotweed was acknowledged and raises serious ecological concerns. Information submitted is deficient and the matter should not be resolved through condition.
- Layout is deficient and access issues arise in relation to bin lorries and emergency services.
- The development is out of character with existing residential development in the area and will overlook adjoining property.
- Response to further information request is deficient.
- Planning Authority assessment is deficient.
- Inadequate parking
- Conflicting conditions attached to the grant of permission in relation to the management company.
- Issues in relation to bin storage.

6.2. **Applicant Response**

The first party has responded to the third party appeals and advises that the proposed development is a well-designed and considered scheme which provides an excellent opportunity to consolidate the built environment locally to the advantage of all. The response also includes a Japanese Knotweed Management Removal & Treatment Plan for the site.

6.3. **Planning Authority Response**

The PA has responded to this third party appeal, advising no further comments.

6.4. Further Responses

- 6.4.1. The Mayfield East Community Association submitted a response to the second third party appeal, seeking to welcome the content of the appeal. Issues restated in relation to roads, traffic and access as well as the inadequacies of the existing water service infrastructure in the area to service the site.
- 6.4.2. Tom & Marian Considine submitted a further response to the first party response to the third party appeals. The submission seeks to reiterate acceptance that some form of development will take place on the subject site, but the scale, density and design of any development should be in character and keeping with the surrounding area. The response restates those issues raised in the appeal and notes that the applicant has not dealt with the serious traffic issues and hazards highlighted in the objection. It is further submitted that the development is not close to existing public parks and amenities, with no such amenities within walking distance of the property. Concerns regarding the boundary wall, encroachment into third party property and issues in relation to the presence of invasive species on the site are also restated in this response. Photographs are enclosed.

7.0 Assessment

Having undertaken a site visit and having regard to the relevant policies pertaining to the subject site, the nature of existing uses on and in the vicinity of the site, the nature and scale of the proposed development and the nature of existing and permitted development in the immediate vicinity of the site, I consider that the main issues pertaining to the proposed development can be assessed under the following headings:

1. Compliance with the Cork City Development Plan, National Guidelines & Standards
2. Roads & Traffic
3. Other issues
4. Appropriate Assessment

7.1. Compliance with the Cork City Development Plan, National Guidelines & Standards:

The Cork City Development Plan, 2015 – 2021:

- 7.1.1. The Cork City Development Plan 2015 – 2021 is the statutory Development Plan for the city of Cork. The subject site is located within the north eastern area of Cork City. The subject site is located within an area which is zoned ZO4, Residential, Local Services and Institutional Uses, where it is the stated objective of the zoning to ‘protect and provide for residential uses, local services, institutional uses and civic uses, having regard to employment policies’. In this regard, it is considered that the principle of the proposed residential development is acceptable and in compliance with the existing policy and objective applicable to the subject site. As such, the issues for consideration pertaining to the proposed development relate to its scale, density and form as it relates to its surroundings, as well as issues regarding amenity.

Sustainable Residential Development in Urban Areas (DoEHLG, 2008):

- 7.1.2. Given the fact that the subject site is located within the established development boundaries of Cork City, is zoned for residential purposes and can connect to public services, the principle of development at this location is considered acceptable and in compliance with the general thrust of national guidelines and strategies. The 2008 guidelines updated the Residential Density Guidelines for Planning Authorities (1999), and continue to support the principles of higher densities on appropriate sites in towns and cities and in this regard, I consider that it is reasonable to support the development potential of the subject site in accordance with said guidelines. The development proposes the construction of 9 dwelling units on a site covering approximately 0.1442ha and in terms of the recommendations of the Guidelines, the density amounts to 63 units per hectare, which could be considered high, having regard to the nature of the existing residential developments in the wider area. However, given the location of the site adjacent to a bus corridor, this density may be acceptable, subject to all site specific issues being addressed.
- 7.1.3. The objective of the Sustainable Residential Development in Urban Areas guidelines is to produce high quality, and crucially, sustainable developments. Section 5.6 of the guidelines provides certain safeguards with regard to such urban developments

to deal with both existing and future residents in the area of the proposed development. Said safeguards are detailed above in Section 5.1 of this report and I consider it reasonable to address the proposed development against same.

a) *Compliance with the policies and standards of public and private open space adopted by development plans;*

In terms of private open space, the Board will note that the proposed development layout, as permitted, provides for some rear gardens having less than a depth of 10m, 6m in places. All rear gardens back onto the site boundary which bounds the public footpath and North Ring Road. The private open space area afforded to a number of the proposed houses is below the Cork City Development Plan requirements of between 48-60m² for townhouses / terraced houses in suburban areas and 60-75m² for 3-5 bed detached houses in suburban areas. While the applicant has submitted that the average private open space provision provided is 48m² per unit, this is not the case, and the average is closer to 43m². From my calculations, it would appear that only 4 of the proposed houses satisfies the Development Plan requirement. Unit 2 has approximately 21.3m² while units 4, 5, 8 and 9 have private open space areas between 32.2m² and 37.4m² approximately.

With regard to useable public open space, the proposal as permitted, provides for no area of public open space. It is submitted that as the site is located in an area where public open space is provided close to the site and given the small scale of the residential development that exceptional circumstances can be considered in accordance with Section 16.19 of the Plan. The City Development Plan requires that greenfield sites provide 15% public open space, with a general provision of 10% required. The area of the total site is 0.1442ha and as such, the area of public open space required would amount to 144m². Having regard to the restricted nature of the site, together with the level of development proposed, there is no real scope to provide public open space within the site boundaries.

Section 16.19 of the City Development Plan advises that public open space will normally be required in all developments, apart from in exceptional circumstances. The applicant considers that exceptional circumstances arise

in this instance given the small scale of the development and the presence of existing public open spaces in the vicinity of the site. I have considered this matter carefully, and while I accept that a high density development should be considered on the site, I would not accept that the existing level of public open space, which is located across the Boherboy Road from the subject site, is adequate to meet the requirements of both existing residents in the area and the proposed development. While private open space is provided for each unit, I consider that a grant of permission would amount the creation of a 'gated' development and would result in the overdevelopment of the site. In light of the above, the proposed development does not accord with the requirements of the Cork City Development Plan in relation to private and public open space provision.

b) Avoidance of undue adverse impact on the amenities of existing or future adjoining neighbours;

The subject site is zoned for residential development and as such, the principle of the development is considered acceptable. In terms of potential impacts on the amenities of existing adjoining neighbours, the Board will note the concerns raised in the third party appeals. The proposals for boundary treatments for the site were considered by the Planning Authority during their consideration of the proposed development.

The proposed development seeks to utilise the existing hedge, in the neighbouring property, along the eastern boundary as providing adequate screening. While I accept the concerns raised by the third party in this regard, I am generally satisfied that the boundary treatments could be dealt with by way of condition should the Board be minded to grant permission in this instance.

That said, I do have concerns regarding the layout of the proposed development and in particular, the lack of any permeability through the site for pedestrians together with the clear priority for the car in terms of access and movement routes through the site. As proposed, I am not satisfied that the development offers an appropriate level of residential amenity for future

residents and would, if permitted in its current form, impact on the existing residential amenities of residents in the vicinity of the site.

c) *Good internal space standards of development;*

While this issue generally pertains to apartment type developments, it is appropriate to state that the proposed internal spaces provided within the houses of this proposed development are acceptable and appropriate to the family type homes proposed.

d) *Conformity with any vision of the urban form of the town or city as expressed in development plans, particularly in relation to height or massing;*

There is no specific guidance expressed in the Cork City Development Plan. Given the location of the proposed development together with the planning history associated with the site for the primary care centre, it has been argued that the nature and scale as proposed should be considered acceptable. While I am satisfied that a development is acceptable in principle on this site, and that there is scope to increase the height and massing of buildings in comparison to the existing residential property in the vicinity, I do have some concerns in relation to the proposed development, as discussed above.

e) *Recognition of the desirability of preserving protected buildings and their settings and of preserving or enhancing the character or appearance of an Architectural Conservation Area;*

Not relevant in this instance as there is no protected structure or Architectural Conservation Area in proximity to the subject site.

f) *Compliance with plot ratio and site coverage standards adopted in development plans.*

The Cork City Development Plan does not dictate site coverage and the plot ratio of the proposed development is approximately 0.8. While I acknowledge the efforts to increase the density at this location, and am satisfied that the principle of proposed development is acceptable, in terms of site coverage and plot ratio, there are significant issues arising in relation to the proposed development.

7.1.4. Having regard to the above, I consider that overall, the principle of the proposed development is acceptable. I arrive at this conclusion given the location of the subject site within the wider Cork City area, the proximity to public transport links and the fact that the proposed land use is compatible with existing adjacent uses as well as the zoning objective afforded to the site. The development as presented however, is substandard in terms of compliance with the open space requirements as stipulated in the Cork City Development Plan.

7.2. Roads & Traffic:

7.2.1. Access to the subject site is proposed via an existing access to the site. The access is located within approximately 35m of the junction of Boherboy Road and the North Ring Road. Given its location, the site has frontage across both roads. In terms of the design of the proposed development, including the entrance to the site, it is a requirement that they be considered against the Design Manual for Urban Roads and Streets (DMURS), DoTTS, March 2013. This Manual replaces DMRB in respect of all urban roads and streets and it does not differentiate between public and private urban streets, where a 60kph speed limit or less applies. The DMURS provides radically new design principles and standards from DMRB. The implementation of DMURS is obligatory and divergence from same requires written consent from relevant sanctioning authority (NRA, NTA or DTT&S) and is applicable in the case at hand. The Manual seeks to address street design within urban areas (i.e. cities, towns and villages). It sets out an integrated design approach. What this means is that the design must be:

- a) Influenced by the type of place in which the street is located, and
- b) Balance the needs of all users.

7.2.2. DMURS sets out a road user priority hierarchy as follows:

- 1 Pedestrians;
- 2 cyclists
- 3 public transport
- 4 car user.

The key design principles for roads include –

- Integrated streets to promote higher permeability & legibility;
- Multi-functional, place-based, self-regulating streets for needs of all users;
- Measuring of street quality on the basis of quality of the pedestrian environment
- Plan-led, multidisciplinary approach to design.
- The importance of this design approach is dependent on site context, but also on road type - local, arterial or link. The DMURS defines a hierarchy of places based on place-context and place-value, with centres (such as town and district centres) having highest place-value. Places with higher context / place-value require:
 - Greater levels of connectivity;
 - Higher quality design solutions that highlight place;
 - Catering for and promotion of higher levels of pedestrian movement;
 - A higher level of integration between users to calm traffic and increase ease of movement for vulnerable users.

7.2.3. DMURS provides detailed standards for appropriate road widths - 2.5m to 3m per lane on local streets and a 3.25m standard for arterial and link route lanes, junction geometry - greatly restricted corner radii to slow traffic speed and improve ease of pedestrian crossing, junction design - omit left turn slips and staggered crossings etc., and requires that roads are not up designed above their speed limit. I raise this issue in relation to the Boherboy Road and North Ring Road junction from which the subject site is proposed to be accessed. The Board will note that there is no reference to DMURS in the reports submitted with the planning application. While I acknowledge the design proposal and the intention to provide a shared surface carriageway to the 'front' of the proposed houses, I am concerned that, overall, the development design gives priority to the car.

7.2.4. I consider that the development as proposed cannot be accommodated on the subject site and accord with the requirements of DMURS. The layout proposed

would, if permitted, turn into itself and would not provide for any active street edges along the existing main roads. There are no internal footpaths proposed and all road users, including pedestrians and cyclists, would utilise the proposed shared surface carriageway without any obvious priority for the vulnerable users. The Board will note that no other useable public open space is proposed. Parking is proposed on all areas of this shared surface and I have a particular concern in relation to proposed car parking space 1. In addition, the layout offers no permeability through the site for pedestrians and might reasonably be considered as a 'gated' development. As such, I consider that the development as proposed, does not comply with DMURS particularly in terms of the priority of vulnerable users.

- 7.2.5. In addition, I do not consider that the proposed development adequately accords with the parking requirements as indicated in the Cork City Development Plan and in particular, given the scale of the houses proposed. While nine car parking spaces are proposed within the site, the City Development Plan requires 2 spaces per 3 bed unit, plus 0.25 spaces for visitor parking. As such, there is a requirement for 20.25 car parking spaces to serve the development. Even if the standard for smaller residential units were applied, the development provides for a shortfall in car parking. Given the restricted nature of the site, I would be concerned that the shared surface carriageway would ultimately be used as a car park and any potential for sharing the surface to include children and vulnerable users, would be eliminated.
- 7.2.6. It is further proposed to provide a bin storage area at the north east corner of the site which has arisen due to the fact that bin trucks will not be able to access the site to collect bins. On the plans, the proposal is to provide for 9 bins only. Condition 12 of the Planning Authority's decision requires that 27 bins will be required to service the development, being 3 bins per dwelling. Compliance with this condition would likely require the elimination of a parking space.
- 7.2.7. The access to the site is located within approximately 35m of the junction of Boherboy Road and the North Ring Road. It is noted that this junction does not comply with the requirements of DMURS in that there is potential for vehicles turning onto Boherboy Road from the North Ring Road at speed due to the wide radii. The junction predates DMURS. The Road Design Section of Cork City Council raised this concern and advised that a special development contribution should be applied in order to construct a 'build out' this junction. While the applicant submitted a Stage 1

Road Safety Audit, the report did not deal with the junction of Boherboy Road and the North Ring Road.

- 7.2.8. The Board will note that there were concerns raised in third party appeals, in terms of the proposed access to the site. The recommendations contained within the Road Safety Audit to address identified problems with the entrance to the site do not comply with the requirements of DMURS. While I accept that the principle of the proposed development is acceptable given the location of the site and the zoning objective afforded to it, I am concerned that the applicant has not clearly demonstrated that if permitted as proposed, the development will not result in a significant traffic hazard. The North Ring Road and the Boherboy Road are both busy and heavily trafficked bounding a large residential area. In the absence of compliance with DMURS, together with my concerns in terms of the layout of the proposed development, I consider that the development is not acceptable.
- 7.2.9. Should the Board disagree, I consider it appropriate that a condition requiring the payment of a Special Development Contribution be included in any grant of permission, in order to fund the alterations to the Boherboy Road junction which will facilitate the proposed development. I note that the condition included in the Planning Authority decision does not specifically state the nature of the works required.

7.3. **Conclusion**

- 7.3.1. Having regard to the location of the subject site within the city of Cork, the provisions of the current Cork City Development Plan, 2015-2021 and the specific zoning objective afforded to the site, together with the history of the site, the pattern of existing and permitted development in the vicinity and having regard to the information submitted as part of the planning application together with the information submitted in the appeal, I consider that the principle of the proposed residential development at this location is acceptable.
- 7.3.2. However, I consider that the proposed development, if permitted in its current form, would not comply with the requirements of the Design Manual for Urban Roads and Streets (DEMURS), DoTTS, March 2013. The development would likely result in a significant hazard due to the additional volume of traffic generated by the proposed

development and its associated impact on the already heavily trafficked Boherboy Road. The junction of Boherboy Road with the North Ring Road does not comply with DMURS and facilitates cars turning into the street at speed. Within the proposed site, the development fails to provide for adequate car parking and I am not satisfied that the shared surface area has adequately prioritised pedestrians over vehicles. Overall, the layout would not be conducive to pedestrian safety.

7.3.3. I consider that the development, if permitted, would result in an overdevelopment of the site and this is borne out given that only four of the proposed residential units meets the minimum private open space standards as required in the Cork City Development Plan. Proposals for dealing with waste are also a concern, particularly given that it has been established that bin trucks will not access the site. Bins for nine residential properties will be presented at a dedicated space just inside the main gate for collection, with each house requiring three bins. While I acknowledge the indication that the units will be likely be fully occupied and managed by Respond! Housing Association, I note that this is just a proposal to date. I would also suggest that the residential development should be able to operate independently, and not as a gated type development, in order to adequately protect the existing residential amenities of the area and be considered as according with the proper planning and sustainable development of the area.

7.4. **Other issues:**

7.4.1. **Water Services**

The proposed development will connect to existing services in the area. The Board will note that the Drainage Section of Cork City Council considered the submitted proposals to be unacceptable. Irish Water also advised that inadequate details were provided in terms of the provision of services. I note that the concerns were not communicated to the applicants by the planning authority at further information stage. In addition, third party appellants have raised concerns in terms of servicing of the site. The Drainage Report from Cork City Council recommended conditions in the event of a grant of planning permission. Should the Board be minded to grant permission in this instance, I would recommend that further information be sought in relation to this issue prior to a positive decision issuing.

7.4.2. **Issues with application details**

The third party appellants raised concerns regarding the processing of the planning application at planning authority stage. It is submitted that the application was not included on the online map viewer system. I would note that the appellants objected to the proposed development and public notices were erected on the site.

An issue was raised as the submitted site outlined includes an area of the adjacent property. In response, the third party has submitted that 'the red line outline relates to the area of the application and is not intended as a legal boundary map. The outline includes an area along the eastern boundary where a new fence is proposed to securely close a gap in the existing neighbour's boundary treatment.' I am unclear as to what this comment actually means but would accept that the applicant has sufficient legal interest to make the planning application.

7.4.3. **Demolition of previous structures**

The appellants have raised concerns over the demolition of the previous structures on the site without the benefit of planning permission. In this regard, I note the submission from the first party which included a notice under Section 11 of the Derelict Sites Act, 1990 with regard to the site. This, in any case, is a matter for the Local Authority and not the Board.

7.4.4. **Japanese Knotweed**

The Board will note the presence of this invasive species on the site. The applicants submitted a report in terms of dealing with this invasive species by way of unsolicited further information. This report notes that the site was cleared of all vegetation prior to a survey being carried out. A further survey will be carried out during the optimum time for new growth, the end of March start of April, to determine the extent of the Japanese Knotweed at the site. Once this survey has been carried out, a management plan will be created and designed as agreed with the building contractors.

In response to the third party appeals, a report titled 'Japanese Knotweed Management Removal & Treatment Plan' was submitted to the Board. The report identified two stands of the invasive species on the site and specific control

measures are advised. There will be no development works within 7m of the site where the Japanese Knotweed is present. The matter can be dealt with by way of condition should the Board be minded to grant planning permission.

7.4.5. Management Company v Taking in charge

In terms of the future management of the estate, the Board will note that it is not common practice today to include conditions requiring management companies be established in house-only residential developments. The decision by Cork City Council includes a condition, condition 7, which requires the incorporation of a management company who will be responsible for the future maintenance and upkeep of all services within the site. Condition 23 requires clarification whether the development shall be taken in charge or will be managed by a management company.

I consider that the confusion in this instance arises given the lack of clear detail in the submitted plans and specifications. In particular, I note the outstanding issues raised by both the Drainage Section Engineer of Cork City Council and Irish Water. I also acknowledge the submission to the Board from Respond! Housing Association in terms of the management of the site. While I have no objection in principle to the development of the site for residential purposes, I have serious concerns regarding the lack of detail in terms of the servicing of the development. In the interests of proper planning and sustainable development, I consider that the development should comply with the requirements of the City Council and should be taken in charge.

7.5. Appropriate Assessment

The closest European Sites are the Cork Harbour SPA (site code 004030) and the Great Island Chanel cSAC (site code 001058). Having regard to the brownfield nature of the subject site, together with the extent of groundworks already carried out on the site, the existence of previous structures on the site and the proximity to the nearest European Site, no appropriate assessment issues arise. It is not considered that the proposed development, either individually or in combination with other plans or projects, would be likely to have a significant effect on a European site.

8.0 Recommendation

I recommend that planning permission be **refused** for the proposed development for the following stated reasons and considerations.

9.0 Reasons and Considerations

Notwithstanding the zoning objective afforded to the subject site in the current Cork City Development Plan, and having regard to the information submitted in support of the proposed development to date and the third party appeals, it is considered that the proposed development, if permitted in its current form, density and layout, would not comply with the requirements of the Design Manual for Urban Roads and Streets (DEMURS), DoTTS, March 2013 as it relates to the development of active streets, pedestrian permeability and the priority of road users. In addition, it is considered that the development represents an overdevelopment of the site and does not comply with the minimum requirements of the Cork City Development Plan in terms of the provision of public open space, private open space or car parking. If permitted, the development will not provide for an adequate level of residential amenity for the future residents.

The Board is not satisfied that the development as proposed would not result in a significant traffic hazard, would contribute to traffic congestion within the local road network and would adversely affect the existing residential amenities of the surrounding area and the carrying capacity of North Ring Road and the Boherboy Road, important traffic routes for Cork City by reason of the additional traffic resulting from the proposed development.

It is, therefore, considered that the proposed development would endanger public safety by reason of traffic hazard, would cause serious traffic congestion, and would be contrary to the proper planning and sustainable development of the area.

A. Considine
Planning Inspector
17th October, 2017