



An  
Bord  
Pleanála

## Inspector's Report ABP-304014-19

### Development

The construction of 61 no. dwelling houses and all ancillary works, including a noise attenuation screen. Access would be provided from the Killumney Road via Heathfield, a residential development that is currently under construction.

### Location

Heathfield, Carriganarra,  
Carrigrohane, Ballincollig, Co. Cork.

### Planning Authority

Cork County Council

### Planning Authority Reg. Ref.

18/7383

### Applicant(s)

MOS Homes Ltd

### Type of Application

Permission

### Planning Authority Decision

Refusal

### Type of Appeal

First Party -v- Decision

### Appellant(s)

MOS Homes Ltd

### Observer(s)

TII

**Date of Site Inspection**

30<sup>th</sup> May 2019

**Inspector**

Hugh D. Morrison

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## 1.0 Site Location and Description

- 1.1. The site is located to the south-east of Ballincollig in a position adjoining an existing housing construction site known as Heathfield. This site lies between the said construction site and the N22, which runs on a north/south axis to the east. Its north-eastern corner is adjacent to the Poulavone Roundabout between the N22 and the Killumney Road/ Carriganarra Road (L-2216), which runs through the southern portion of Ballincollig on an east/west axis.
- 1.2. The site is of regular shape and elongated form. It extends over an area of 2.78 hectares and it is presently down to grass and in agricultural use. The southern portion of this site rises gently to a local high point in its centre and the northern portion rises gently to a local high point in its north-western corner. This site is bound, to the north, by the L-2216, which slopes downwards towards the aforementioned roundabout, to the east, by a cutting on the western side of the N22, to the south, by a field division and, to the west, by the existing housing construction site. Roadside boundaries are denoted by hedgerows and the remaining boundaries are denoted by timber post and wire fences and temporary wire-mesh fences.

## 2.0 Proposed Development

- 2.1. The proposal would entail the construction of 61 no. dwelling houses (7593 sqm), consisting of:
  - 1 no. four-bed detached dwelling house
  - 32 no. four-bed semi-detached dwelling houses
  - 18 no. three-bed semi-detached dwelling houses
  - 6 no. three-bed townhouses, and
  - 4 no. two-bed townhouses,

And all ancillary works, including a noise attenuation screen, which would be erected along the eastern boundary and north-eastern corner of the site.

- 2.2. The proposal would be an extension to the residential development known as Heathfield, which is currently under construction with access provided via the signalled junction with Killumney Road/Carriganarra Road and the Lee Murphy Road

(L-2214) opposite and the internal road network, which was permitted under 15/6813 and 17/4270. The proposed dwelling houses would be laid out on extensions to six cul-de-sacs permitted under the said road network.

### **3.0 Planning Authority Decision**

#### **3.1. Decision**

Permission was refused for the following reasons:

1. The site lies within a designated Route Protection Corridor, wherein the design of the Northern Ring Road and associated interchanges has yet to be finalised. Under Section 2.9 of the Spatial Planning and National Roads Guidelines and Objective TM-3 of the CDP, the proposal for this site would be premature and it would materially contravene the said Objective.
2. The proposal does not provide for the delivery of infrastructure described in Tables 3.1 and 3.2 of the LAP and required under Policy Objective BG-R-04 of the LAP. This proposal would thus be premature and it could undermine the sustainable development of the Urban Expansion Area.
3. Due to the proximity of proposed dwelling houses to the Poulavone Roundabout on the N22 and notwithstanding the proposed noise attenuation barrier, it is considered that the amenities of these dwelling houses would be adversely affected.

#### **3.2. Planning Authority Reports**

##### **3.2.1. Planning Reports**

See decision

##### **3.2.2. Other Technical Reports**

- IFI: No objection, subject to Irish Water's approval of the proposal.
- Housing Officer: No in principle objection to the proposed transfer of 6 no. dwelling houses: Deferral requested to ensure that the selected units are "pepper-potted" throughout the site.

- Public Lighting: Deferral requested.
- Area Engineer: Grant recommended.
- Estates: Deferral requested so that various technical matters can be clarified/ augmented.
- Archaeology: The site is close to the Zone of Archaeological Potential around an enclosure (CO73-150): Deferral requested so that an Archaeological Impact Assessment can be prepared.
- Irish Water: Deferral requested with respect to details of foul sewer connection, temporary pumping arrangements, and final gravitational sewerage system.
- National Roads Office: Objection raised, as the proposal would be in conflict with upgrade proposals for N22, which would be undertaken as part of the Northern Ring Road Project.

#### 4.0 Planning History

Site:

- Pre-application consultations occurred on 20/10/15 and 16/11/16.

Adjoining lands to the west:

- 15/6813: 59 residential units + access via new roundabout at junction between Killumney Road and Carriganarra Road: Permitted.
- 17/4270: 238 residential units + creche (347 sqm): Permitted.
- 18/7345: Alterations to layout permitted under 17/4270 to facilitate the introduction of 4 play areas and the modification of 3 play areas and the omission of a special development contribution for the off-site provision of recreational facilities: Permitted.
- 18/7406: Change of house type for 4 residential units permitted under 17/4270: Permitted.

## 5.0 Policy and Context

### 5.1. Development Plan

Under the Cork County Development Plan 2014 – 2020 (CDP), Ballincollig is identified as a Metropolitan Town and the N22, to the east of the site, is shown variously as a Route Protection Corridor and a Preferred Route in connection with the Cork North Ring Road (N22/N20/M8) Project, which under Objective TM 3-1(a) is categorised as critical to the delivery of planned development and which the Planning Authority undertakes to seek the support of the TII in its implementation.

Under the Ballincollig – Carrigaline Municipal District Local Area Plan 2017 (LAP), the site is shown as lying inside the development boundary around this town and on lands zoned residential.

- Residential objective BG-R-04 pertains to an area of 18.9 hectares, which includes the subject site and it states the following:

*Medium A density residential development on a phased basis. Development on this site requires provision to be made for the delivery of the infrastructure described in Tables 3.1 and 3.2.*

*Noise attenuation measures should be provided along the boundary with the N22.*

Medium A density residential development is described under HOU 4-1 of the CDP as being between 20 – 50 residential units per hectare.

Tables 3.1 and 3.2 relate to variously proposed on-site (Bundle A) and off-site (Phase1) infrastructure that would be required in conjunction with the Ballincollig (Maglin) Urban Expansion Area.

- Utility objectives relate to the provision of a spine road (BG-U-05: Eastern Link Road) to the west and a walkway/cycleway (BG-U-02) along the route of a former railway line run to the south, respectively.

### 5.2. Natural Heritage Designations

- Great Island Channel SAC (site code 001058)

- Cork Harbour SPA (site code 004030)

### 5.3. EIA Screening

Under Items 10(b)(i) & (iv) of Part 2 of Schedule 5 to Article 93 of the Planning and Development Regulations, 2001 – 2018, where more than 500 dwelling units would be constructed and where 10 hectare-urban sites would be developed, the need for a mandatory EIA arises. The proposal is for the development of a 2.78-hectare site to provide 61 dwelling units. Accordingly, it does not attract the need for a mandatory EIA. Furthermore, as this proposal would fall below the relevant thresholds, I conclude that, based on its nature, size, and location, there is no real likelihood of significant effects upon the environment and so the preparation of an EIAR is not required.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

The applicant begins by reviewing the history of planning policy with respect to the site. Thus, this site was zoned residential for the first time under the current LAP (Residential Objective BG-R-04). No buffer zone was included. The applicant understood that the zoning indicated that “the Northern Ring Road Route Protection Corridor has been rationalised or was no longer an infrastructure objective.” Attention is drawn to the absence of objection to the said zoning from the TII and, again, the absence of objection at the application stage to the current proposal. Attention is also drawn to the likely absence of the Northern Ring Road from the forthcoming Cork Metropolitan Area Transportation Strategy.

The applicant cites the following grounds of appeal:

- In relation to the first reason for refusal, attention is drawn to Section 2.9 of the Spatial Planning and National Roads Guidelines, which states that the TII works to a 20-year time horizon. The applicant contends that the National Road Design Office does not speak on behalf of the TII and that the point summarised above indicates that the Northern Ring Road lies outside the

stated time horizon. The applicant also contends that, in view of the site's zoning, the proposal would not contravene Objective TM 3-1 of the CDP.

- In relation to the second reason for refusal, this reason was added in lieu of a request for further information. At present the applicant is the only developer active "on the ground" within the Urban Expansion Area. As such it has obtained all the necessary agreements with the County Council and Irish Water for infrastructure works. It has also begun work on the construction of the spine road within its lands.
- In relation to the third reason for refusal, the applicant's invite the attachment of a condition to address the need for a site-specific acoustic report, e.g. like the one attached to 16/7271.

## 6.2. Planning Authority Response

None

## 6.3. Observations

The TII advises that it was not consulted at the application stage, only at the appeal stage. It draws attention to the "Preferred Route Corridor" status of the N22, as it passes to the east of the site, and how this status is in conflict with the current proposal, as previously advised by the National Roads Design Office. Accordingly, this proposal could prejudice plans for the upgrade of the N22 and thus be contrary to Section 2.9 of the Spatial Planning and National Roads Guidelines and Objective TM 3-1 of the CDP. It is thus premature in advance of detailed plans for this upgrade and so the observer supports the first reason for refusal.

## 6.4. Further Responses

The applicant has responded to the observer as follows:

- The observer has neither questioned the zoning of the site under the LAP nor its stakeholder role in the preparation of this Plan.
- Whereas the draft Cork Metropolitan Area Transport Strategy 2040 has now been published with the Cork North Ring Road included within it, it is regarded

as a “soft” objective insofar as it is subject to appraisals of the proposed N/M20 Cork to Limerick Improvement Scheme. Consequently, its planned implementation is for the latter period of this Strategy and thus outside a 20-year time horizon.

- Unlike for other residential objectives in the LAP, the one relevant to the site does not make any allowance for road widening proposals.
- The presence of the Highfield housing estate to the north of the Link Road would militate against any upgrade on the western side of the N22, as distinct from the eastern side, to the north of the Poulavone Roundabout.

The observer has responded to the applicant as follows:

- The proposal would be at odds with the objective to upgrade the N22.
- With respect to the LAP zoning of the site, attention is drawn to the TII’s pre-draft stage submission to the Planning Authority concerning the proposed LAPs for the County and to the requirement that the primacy and function of the national road network (including the N22) be maintained in the LAPs.
- Attention is also drawn to the TII’s submission to the review of the Cork Urban Area Expansion Plans, which encompass the existing housing construction site to the west of the subject site. This submission referred to the importance of the strategic regional transport role of the N22.
- Section 1.7.3 of the LAP comments as follows on its relationship with the CDP: “The objectives of the CDP have not been repeated in this LAP and so the two documents must be read together when planning a development. All proposals for development, put forward in accordance with the provisions of this LAP, must demonstrate compliance with the objectives of the County Plan...” Accordingly, the CDP’s Objective TM 3-1 is supported by the LAP.
- Exception is taken to the applicant’s description of the N22 upgrade as a “soft long-term objective” on the basis of the following:
  - Objective TM 3-1 of the CDP,
  - Sections 6.3.6.3 & 6 of the Southern Regional Assembly’s draft Regional Spatial & Economic Strategy,

- Policy Objective 9 of the Cork Metropolitan Area Strategic Plans, and
- The draft Cork Metropolitan Area Transport Strategy 20140.

Furthermore, the N22 upgrade would be consistent with Section 2.9 of the Spatial Planning and National Roads Guidelines and the Planning Authority's draft decision.

- While the prioritisation of infrastructure projects is a matter for the Government, the N22 upgrade is demonstrably in progress and that until its design is finalised, development on the subject site would militate against its delivery.

## 7.0 Assessment

7.1. I have reviewed the proposal in the light of national planning guidelines, the CDP, the LAP, relevant planning history, the submissions of the parties, and my own site visit. Accordingly, I consider that this application/appeal should be assessed under the following headings:

- (i) Land use and transportation,
- (ii) Density, design, and site layout,
- (iii) Development standards,
- (iv) Traffic, access, and parking,
- (v) Water, and
- (vi) Screening for AA.

### **(i) Land use and transportation**

7.2. Under the LAP, the site is shown as being within the development boundary around Ballincollig and in an area that is zoned residential.

7.3. Under the CDP, the N22 to the east of the site is shown variously as a Route Protection Corridor and a Preferred Route (Figure 10.2). Item (a) of the accompanying Transport and Mobility Objective TM 3-1 identifies this Preferred Route as the Cork Northern Ring Road (N22/N20/M8), which is categorised as a Project Critical to the Delivery of Planned Development. (Such identification is in

accordance with the advice set out in Section 2.9 of the Spatial Planning and National Roads Guidelines, entitled “Protection of Alignments for Future National Roads Projects”). Item (b) of this Objective states the following: “Support and provide for improvements to the national road network, including reserving corridors for proposed routes, free of inappropriate development, so as not to compromise future road schemes.”

- 7.4. Notwithstanding the residential zoning of the site, the Planning Authority’s first reason for refusal refers to the material contravention of Objective TM 3-1 and Section 2.9 that would arise under the proposal.
- 7.5. The applicant has challenged the first reason for refusal on the basis that it had deduced from the residential zoning of the site, which occurred for the first time in the 2017 LAP, that the Route Protection Corridor had either been rationalised or eliminated. While it acknowledges that the Corridor is shown in the recently published draft Cork Metropolitan Transport Strategy 2040 (CMTS) as the “Cork North Ring Road”, the applicant contends that, as the Ring Road would be subject to appraisals of the proposed N/M20 Cork to Limerick Improvement Scheme, this Road should be regarded as a “soft” objective that would be realised outside a 20-year time horizon.
- 7.6. The observer has responded to the applicant by drawing attention to Section 1.7.3 of the LAP, which states that, as objectives in the CDP have not been repeated in the LAP, the LAP and the CDP need to be read together. Accordingly, Objective TM 3-1 is applicable to the site and any proposals that may be considered for the same. The observer takes exception to the applicant’s description of the N22 upgrade as a “soft” objective. In this respect, its citation in the CDP and the CMTS, amongst other documents, is referred to and the reality that Government decisions on funding for projects affects their timing is acknowledged.
- 7.7. I note Section 1.7.3 of the LAP. I note, too, that in circumstances such as those pertaining in this case, wherein there is a tension between the zoning of a site in the LAP and a Route Protection Corridor in the CDP, the hierarchy of plans should be given weight and so the provisions of the CDP take precedence over the provisions of the LAP.

- 7.8. The applicant comments upon the proposed layout of the N22 upgrade, as depicted in a screenshot attached to an e-mail sent to the Planning Authority by the National Roads Office. The feasibility of routing the northern ramp from the elevated western roundabout adjacent to the existing Poulavone Roundabout is questioned, due to the proximity of the Highfield housing estate to the north-west and in particular apartment blocks with an underground car park and an accompanying drainage network. The implication of this question is that the siting of the said western roundabout and accompanying southern ramp within the site may need to be reconsidered, too.
- 7.9. The observer has not responded in detail to the applicant's comments. It has however stated that the design of the upgrade has yet to be finalised.
- 7.10. I note that the scale of the screenshot is small and so it does not lend itself to detailed analysis. That said the indicative route of the northern ramp is depicted as lying within the existing lands comprised in the public road network. As already stated, the western roundabout and southern ramp would lie within the site itself. I note, too, that the observer states that finalisation of the design of the upgrade is presently awaited.
- 7.11. I conclude that, notwithstanding the residential zoning of the site in the LAP, the proposal would materially contravene Objective TM 3-1 of the CDP.

**(ii) Density, design, and site layout**

- 7.12. The proposal is for 61 dwelling houses on a site of 2.78 hectares. The resulting net residential density would be almost 22 dwelling houses per hectare.
- 7.13. The site forms part of a wider area, which is the subject of Residential Objective BG-R-04 in the LAP. This Objective states that "Medium A density" is applicable, i.e. under Objective HOU 4-1 of the CDP, 20 – 50 residential units per hectare. The proposal would thus come within this range.
- 7.14. Under Section 5.11 of the Sustainable Residential Development in Urban Areas Guidelines, the residential development of greenfield sites on the periphery of towns, such as the subject site, should exhibit net residential densities between 35 – 50 dwellings per hectare, with less than 30 dwellings per hectare on sites of over 0.5 hectares in area being discouraged. The proposal would fall short of these densities.

- 7.15. The proposal would comprise 61 dwelling houses, which would be either the same of similar in design to dwelling houses that have been permitted for the adjoining more extensive site to the west. These dwelling houses are presently under construction.
- 7.16. The proposal would be laid out around six extensions to permitted cul-de-sacs in the eastern portion of the adjoining more extensive site, which is presently under construction. This proposal would thus be continuous with the already permitted one and so they would “read” as being ultimately the same development. *Prima facie* the density of the current proposal would be somewhat higher than that exhibited by the permitted residential development.
- 7.17. In view of the elongated form of the site along the eastern boundary of the existing more extensive housing site and in view, too, of the commonalities between the current proposal and that which has previously been permitted and the resulting subsidiary nature of the former to the latter, I consider that the normal requirement that density should comply with the aforementioned Guidelines can reasonably be relaxed in this case.
- 7.18. I conclude that, given the context and form of the site, the proposal would be of an appropriate density, design, and layout.

**(iii) Development standards**

- 7.19. The proposed dwelling houses would be designed to comply with the internal floorspace areas and dimensions set out in Section 5.3 of the Quality Housing for Sustainable Communities: Best Practice Guidelines. These dwelling houses would be accompanied by adequate areas of private open space and they would be laid out to ensure that conventional separation distances between them are achievable.
- 7.20. As discussed under the second heading of my assessment, the proposal would be an extension to a permitted residential development, which is presently under construction. Accordingly, future residents would be in a position to avail of the public open space provision that would be incorporated in this permitted residential development. The current proposal would also comprise areas of public open space, which would extend already permitted ones and which would include in the northern portion of the site an additional local play area.
- 7.21. The eastern boundary of the site would abut the N22, which passes through a cutting along the greater portion of this boundary. Under Objective BG-R-04, the need for

noise attenuation measures along this boundary is recognised. The applicant has submitted a generic Noise Attenuation Measures Report, which is accompanied by cross sections of the site in relation to the N22. A 2m high acoustic barrier is thus proposed along with planting on either side of this barrier.

- 7.22. The Planning Authority's third reason for refusal expresses concern that even in the presence of the aforementioned barrier noise levels at dwelling houses adjacent to the Poulavone Roundabout in the northern portion of the site may be excessive.
- 7.23. The applicant has responded by inviting a condition, under which the submission of a site-specific acoustic report would be prepared. It thus anticipates that noise levels would be capable of being adequately mitigated. It cites the example of permitted application 16/7271 wherein a condition precedent requires the submission of a site-specific acoustic report in relation to a major residential development in the vicinity of the N28.
- 7.24. I note that the dwelling houses of concern to the Planning Authority are separated from the Poulavone Roundabout by an area of public open space, within which trees would be planted. I note, too, that there would be scope for additional tree planting within this area and so the options for noise attenuation would extend beyond those of the already proposed acoustic barrier and the possible specification of triple glazing. In these circumstances, there would appear to be sufficient scope to ensure that noise from the said Roundabout could be mitigated satisfactorily and so the use of a condition as suggested by the applicant would be appropriate.
- 7.25. I conclude that the proposal would comply with relevant development standards and the use of a condition would be appropriate to address the issue of noise from the N22.

#### **(iv) Traffic, access, and parking**

- 7.26. Traffic generated by the proposal would access the site from Killumney Road to the north via the road network envisaged under the permitted residential development. This network would be extended across six cul-de-sacs to facilitate full vehicular and pedestrian access. Each dwelling house would be served by two off-street car parking spaces to the front of the same.
- 7.27. Under the Planning Authority's second reason for refusal concern is expressed that infrastructure works set out under Tables 3.1 and 3.2 of the LAP might not proceed

in tandem with the proposal. With respect to roads, the Eastern Spine Link Road is identified in this respect.

- 7.28. The applicant has responded to this concern by stating that it is presently the only developer active within the Urban Expansion Area in question and that part of the said Link Road is already insitu.
- 7.29. I note that the initial portion of the Eastern Spine Link Road lies within the blue edge shown on the submitted plans. I note, too, that theoretically the subject site could be served without this Link Road being constructed to the southern boundary of the applicant's lands. To avoid this scenario, a condition requiring the completion of the Link Road up to this boundary prior to the first occupation of the dwelling houses currently proposed could be attached to any permission.
- 7.30. I conclude that traffic generated by the proposal could be accommodated satisfactorily on existing and proposed public roads and that access arrangements to the site would be satisfactory, too, provided the proposed Eastern Spine Link Road is completed within the applicant's lands prior to the first occupation of the currently proposed dwelling houses.

#### **(v) Water**

- 7.31. The proposal would be supplied by the public water mains and served by the public sewerage system, as installed in the adjoining residential development, which is presently under construction. The application is accompanied by a pre-connection enquiry letter from Irish Water, which advises that there are no capacity issues in the public systems.
- 7.32. Under the Planning Authority's second reason for refusal concern is expressed that infrastructure works set out under Tables 3.1 and 3.2 of the LAP might not proceed in tandem with the proposal.
- 7.33. The applicant has responded to this concern by stating that it is presently the only developer active within the Urban Expansion Area in question and that to date it has obtained all necessary agreements with Irish Water to proceed.
- 7.34. The submitted water main, foul sewer, and storm water site layout plans show that each of these systems would link into corresponding systems in the residential development site, which is presently under construction. Thus, their provision would

depend on the prior provision of their corresponding systems. With respect to storm water the proposed attenuation tanks in the existing residential development site would serve the proposal and so they would need to be re-sized accordingly. Such re-sizing could be the subject of a condition precedent.

7.35. Whereas lands to the south of the site are the subject of identifiable flood risk, the subject site is not the subject of such risk under the OPW's flood maps.

7.36. The proposal would be capable of being supplied by the public water mains and served by the public sewerage system satisfactorily. No identifiable flood risk is attendant upon the site.

#### **(vi) Screening for AA**

7.37. The site is neither in nor beside a Natura 2000 site. The nearest such sites are the Cork harbour SPA and the Great Island Channel SAC. The River Lee passes 1.08 km to the north of the subject site and it flows into the said Natura 2000 sites. This River would thus be a potential source/pathway/receptor route, only the intervening distance and absence of connectivity negates the same.

7.38. Having regard to the nature of the receiving environment and the proximity to the nearest European sites, no Appropriate Assessment issues arise, and it is not considered that the proposal would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

## **8.0 Recommendation**

8.1. That permission be refused.

## 9.0 Reasons and Considerations

Having regard to Section 2.9 of the Spatial Planning and National Roads Guidelines and Objective TM 3-1 of the Cork County Development Plan 2014 – 2020, it is considered that, as the site lies within the Route Protection Corridor of the Cork Northern Ring Road (N22/N20/M8) which is a Project Critical to the Delivery of Planned Development, the proposal would be premature in advance of the finalisation of the design of the proposed upgraded junction between the N22 and the L-2216 within this Corridor. Accordingly, to accede to this proposal would risk compromising the said design and so it would fail to reserve the Route Protection Corridor. Objective TM 3-1 would thus be materially contravened and so the proposal would be contrary to the proper planning and sustainable development of the area.

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Hugh D. Morrison  
Planning Inspector

10<sup>th</sup> July 2019