



An
Bord
Pleanála

Inspector's Report

ABP-305041-19

Development

Construction of vehicular residential entrance. The parent permission for the Loreto Park development is P.71/88. The site is located within the St Canice's Architectural Conservation Area as indicated in Kilkenny Borough Council Development Plan.

Location

No. 15 Bishop's Hill, Kilkenny City, Co Kilkenny

Planning Authority

Kilkenny County Council

Planning Authority Reg. Ref.

1946

Applicant(s)

Shane and Carmel Dalton.

Type of Application

Permission.

Planning Authority Decision

Grant Permission.

Type of Appeal

Third Party V Decision.

Appellant(s)

1. Charles Phelan and others.
2. Loreto Park Residents Association.

Observer(s)

1. Fred and Helen Tuite
2. Bortha Woudsma

Date of Site Inspection

4th December 2019.

Inspector

Susan McHugh

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1.0 Site Location and Description

- 1.1. The appeal site is located within a predominantly residential area, approx. 1 km north of Kilkenny City centre.
- 1.2. The existing dwelling house at no. 15 Bishops Hill is one of 4 houses currently accessed via a shared vehicular and pedestrian laneway. The laneway is parallel to and elevated above Bishop's Hill to the east. Bishop's Hill forms a junction with Troys Lane to the south.
- 1.3. The Loreto Park estate which comprises 15 no. houses, is located to the west of the appeal site and is accessed from Troys Lane. House no. 15 and 16 Loreto Park are located to the north of the appeal site and are home to the appellants.
- 1.4. The appeal site comprises a single storey bungalow which is elevated approx. 4.5m above the level of the laneway and accessed via a pedestrian gate and path. The existing garage is located along the eastern front boundary with garage doors which open onto a recessed area along Bishop's Hill. The area beyond the front/eastern boundary is used for car parking.
- 1.5. The rear/western boundary is defined by a random rubble wall which abuts an area of landscaped open space within the Loreto Park estate. The appeal site extends to include a section of this boundary wall, landscaped open space and turning/parking area within the cul de sac.
- 1.6. The appeal site is located within the St. Canice's Architectural Conservation Area.
- 1.7. The subject site has a stated area of 0.3018ha.

2.0 Proposed Development

- 2.1. Permission is sought for the provision of a new vehicular residential entrance and a set of residential entrance gates from Loreto Park.
- 2.2. The development will consist of the realignment of grassed verges, provision of a new 3m wide entrance through a rubble stone wall.
- 2.3. Permission is also sought to permanently close up the existing garage door to 15 Bishop's Hill and the construction of a new low-level planter to the front of same.

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority decided to **grant** planning permission 09/07/2019 subject to 8 no. conditions. Conditions of note include the following;

Condition No. 5 (c): 'Upon this new entrance from Loreto Park becoming operational, the car parking spaces and vehicular access from Bishop's Hill shall cease. Reason: In the interests of pedestrian safety'

Condition No. 8: Revised parking bay bounding the proposed entrance to be agreed.

3.2. Planning Authority Reports

3.2.1. Planning Reports (dated 26/03/2019 and 09/07/2019)

The **1st Planners Report** is the basis for the Planning Authority decision. It includes;

- Vehicular access to the existing bungalow is severely hampered by the substandard width of the existing access road which runs directly in front of terraced dwellings on Bishop's Hill.
- Proposal to provide vehicular access from Loreto Park an established residential estate appears to be a reasonable solution to an access problem.
- As was the case with previous similar applications no objections in principle.
- Note that the two no. visitor parking spaces will be impacted on by the development but has no objection to the elimination of these spaces.
- The green space which has been maintained by residents and claim of adverse possession is beyond the remit of the planning authority.
- Any future development will be assessed on its own merits.
- Recommends further information in relation to the impact on the Lime tree proximate to the proposed gateway, clarity in relation to a right of way indicated on the site layout plan, and revised site layout plan rectifying discrepancies between the site location map and layout plan.

The **2nd Planners Report** can be summarised as follows;

- The response to the request for further information was acceptable.

The recommendation was to grant permission.

3.2.2. **Other Technical Reports**

Road Design: Report dated 25/03/2019 recommends no objection.

Conservation Officer: Planners Report refers to verbal report which recommended no objection, on the basis that the extent of wall being knocked down is no more than was previously proposed under P.A.Reg.Ref.P.17/92.

The application was referred to the Area Engineer and Parks section, but no reports were received.

3.3. **Prescribed Bodies**

An Taisce: Report dated 07/10/2019 notes several problems associated with the location of the proposed entrance, the historic value of the existing fine limestone rubble wall, its location within St.Canice's Architectural Conservation Area which has a dense network of narrow winding lanes and would benefit from the introduction of a one way system, note the history of refusals for the development and share all the concerns expressed by Loreto Park Residents Association in their appeal.

The Board referred the application to An Chomhairle Ealaíon, Development Applications Unit, Department of Culture, Heritage and the Gaeltacht, Fáilte Ireland, The Heritage Council.

3.4. **Third Party Observations**

3.4.1. A number of submissions were lodged with the planning authority from the following parties;

- New Ground Ltd on behalf of Loreto Park Residents Association, C/o
 - Frederick Tuite 1 Loreto Park.

- Bortha Woudsma 12 Loreto Park.
- Teresa and Denis Guilfoyle 14 Loreto Park.
- Peter Thompson Planning Solutions on behalf of
 - Noel and Josephine Cuddihy 15 Loreto Park.
 - Charles and Anne M Phelan 16 Loreto Park.

3.5. Objections to the proposal received by the planning authority have been forwarded to the Board and are on file for its information. The issues raised are comparable to those raised in the third party appeals and observations summarised in section 6 below.

4.0 Planning History

The appeal site has a long planning history including refusals for a dwelling with vehicular access from Loreto Park.

P.A.Reg.Ref. P17/92 ABP Ref. PL10.249067: Permission **refused** 03/04/2018 for new vehicular residential entrance and a set of residential gates. The reason for refusal stated;

‘Having regard to the planning history and the proposed development which does not include the entire site and dwelling at 15 Bishop’s Hill, and, therefore, does not include a proposal in respect of the existing access from Bishop’s Hill, it is considered that the proposed development, which constitutes the provision of a separate access, would be piecemeal development, would constitute disorderly development and would, therefore, be contrary to the proper planning and sustainable development of the area.’

‘In deciding not to accept the Inspector’s recommendation to grant permission, the Board considered that the nature of the proposed development would not be compatible with the nature and pattern of uses in the vicinity.’ (See file attached)

P.A.Reg.Ref.11/41 ABP Ref. PL62.239603: Permission **refused** 05/07/2012 for provision of a new vehicular residential entrance and a set of residential entrance gates from Loreto Park to the property at 15 Bishop’s Hill, the realignment of two car

parking spaces, realignment of grassed verges, provision of a new four metre wide entrance through a rubble stone wall and the reduction in height of part of the stone wall to 1.1 metres. The reason for refusal stated;

'1. Having regard to the planning history of the landholding, in particular, planning register reference number 10/66 where permission has been granted for an extension to the existing house thereon, with access from Bishop's Hill and the current proposed development, where the same house is not included within the land ownership boundary, it is considered that the proposed development, which constitutes the provision of an access, would be piecemeal development, would constitute disorderly development and would, therefore, be contrary to the proper planning and sustainable development of the area.' (See file attached)

P.A.Reg.Ref.04/27 ABP Ref.PL62.209570: Permission **refused** 20/04/2005 for construction of a house, garage and associated site works. The reasons for refusal stated;

'1. Having regard to the location and topography of the site and proximity to adjacent residential properties, it is considered that, by reason of design, height, scale and mass, the proposed development would create overlooking and would be visually obtrusive and out of character with the pattern of development in the area, would be detrimental to the development potential of adjoining land to the south and would seriously injure the amenities or depreciate the value of property in the vicinity. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

2. Having regard to the submissions made in connection with the planning application and appeal, the Board is not satisfied that the application has been made by a person who has -

(a) sufficient legal estate or interest in the land the subject of the application to enable the person to continue the existing use of, or carry out the proposed works on the land, or

(b) the approval of the person who has such sufficient legal estate or interest.

The Board is therefore not satisfied that a safe access can be created to the site. To permit the proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.’ (See file attached)

Enforcement

UD 458: Warning letter dated 10/05/2013 in relation to alleged unauthorised access from lands at Loreto Park, to lands at 15 Bishop’s Hill, and alleged unauthorised dwelling on lands to rear of 15 Bishop’s Hill, Kilkenny. File closed.

Parent Permission Loreto Park

The parent permission for the Loreto Park estate is **P.A.Reg.Ref.P.71/88**.

5.0 Policy Context

5.1. Development Plan

- 5.1.1. The Kilkenny City and Environs Plan (2014-2020) is the current operative plan.
- 5.1.2. The site is zoned existing residential with the objective: *“to protect, provide and improve residential amenities”*. (see map attached)
- 5.1.3. **Section 7.4** of the plan relates to Architectural Heritage. The National Inventory of Architectural Heritage is specifically referred to in **section 7.4.5. Objective 7J** of the plan is to *“ensure the protection of the architectural heritage of Kilkenny City & Environs by including all structures considered to be of special architectural, historical, archaeological, artistic, cultural, scientific, social or technical interest in the Record of Protected Structures”*.
- 5.1.4. **Section 7.4.6** of the plan relates to Architectural Conservation Areas (ACAs) and an objective for all ACAs in Kilkenny City and Environs 7M is *“to ensure the preservation of the special character of each ACA particularly with regard to building scale, proportions, historical plot sizes, building lines, height, general land use, building materials, historic street furniture and paving”*.
- 5.1.5. The site is within the St Canice’s ACA with reference to **figure 7.8** of the plan (see map attached) and in **section 7.4.7.3** which specifically refers to the St. Canice’s

ACA there is a Development Management Standard **SCACA 1**: *To protect the historic and architectural character of St. Canice’s Cathedral and its unique setting and to protect the grouping of the Cathedral, Library, Deanery, and other buildings associated with the administration of the Cathedral.*

5.1.6. **Chapter 11** of the plan relates to Requirements for Developments and in particular **section 11.8.8** refers to infill development where it is indicated that “*within the city infill development and refurbishment schemes will be required to pay particular attention to the local scale and plot size and the requirements of any Architectural Conservation Area within which the site is located.*

Development will only be considered if it:

- *Will not detract from the character of the area,*
- *Will not be detrimental to the residential amenities of the area,*
- *Will not be prejudicial to the proper planning and development of the area.”*

5.2. National Policy

- The National Planning Framework – Project Ireland 2040
- Development Management Guidelines for Planning Authorities, June 2007

5.3. Natural Heritage Designations

The following European sites are within the vicinity of the site.

Site Name	Designation	Site Code	Distance
River Barrow and River Nore	SAC	002162	200m E
River Nore	SPA	004233	200m E

5.4. EIA Screening

Having regard to the nature of the proposed development, the nature of the receiving environment, and proximity to the nearest sensitive location, there is no real likelihood of significant effects on the environment arising from the proposed

development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal No. 1

- 6.1.1. A Third-Party appeal against the decision of the planning authority to grant permission was lodged by Peter Thompson Planning Solutions on behalf of Charles and Anne Phelan, and Noel and Josephine Cuddihy.
- 6.1.2. The appeal was accompanied by a letter of consent from Kilkenny County Council to the making of a planning application on another site, and a letter from Walter A. Smithwick & Son Solicitors including a map indicating the common areas within Loreto Park which have been taken in charge. The grounds of appeal can be summarised as follows;

Validity of the application/ownership

- The application is not accompanied by a letter of consent from the owners of those parts of the application site not in the applicants' ownership.
- Disputes the assertion that the applicants are the owners of the application site and that the Council owns Loreto Park.
- The applicants do not own the landscaped area of open space which they proposed to alter and remove to facilitate access into their property, nor do they have exclusive ownership of the shared boundary wall they propose to develop by removing a section and replacing it with gate piers and gates.
- Assert that the planning authority erred when not addressing the absence of a letter of consent from the relevant landowners in assessing PA. Ref.17/92.
- Note the Board Inspectors report ABP Ref. PL10.249067 elected not to address ownership issues having regard to the Development Management Guidelines.
- Contend that the applicants should have sought consent from the owners of the site.

- Note the reference in the planners report to the applicants assertion that a letter of consent is not required from the Council due to their policy to grant access to sites over public verges. Disputes that this is the case and refers to a copy of a letter attached in respect of another application elsewhere in the city.
- Failure on the part of the applicant to obtain letters of consent may lead to unnecessary and potentially costly legal dispute.
- Failure on the part of the Council to seek legal advice on it's entitlement to allow land taken in charge to be developed.
- Request that the Board refuse permission given the applicants failure to demonstrate sufficient legal interest in the property to implement the permission. Note previous application on the site PA Reg.Ref.04/27, and reason no. 2 for refusal ABP.PL62.209570.

Clarification of Ownership Boundaries

- The clarification plan which was submitted with the further information response clearly shows the area the applicant considered to be taken in charge was to the rear of the boundary wall on the applicants' side which is incorrect, as the Planning Authority has no ownership in common boundary party walls.
- The applicant shows his interest in the common boundary wall with no. 16 Loreto Park being to the centre line of the common boundary party wall, which is correct.
- The centre line of the common boundary wall at the proposed entrance should have indicated the extent of the applicants ownership with the Loreto Park face of the boundary wall showing the extent of the land taken in charge. This would have left the other half of the common boundary wall outside the ownership of the applicant and outside the extent of the land taken in charge (i.e. along the centre line of the wall).

Property Rights

- The open space and roads within Loreto Park, including the area of landscaped open space and the turning head/parking area which the

applicants propose to sterilise to gain access to his property, is now in the ownership of Kilkenny County Council. Each and every house owner in Loreto Park estate retains property rights over the roads open space and turning head/parking. The Council has no authority to alter or remove the property rights of any house owner in the Loreto Park estate without their consent.

- Note Section 34(13) of the Planning and Development Act, the applicant does not have sufficient legal interest to implement the permission and the application should be refused.

Misleading Terminology

- A verge is defined as 'a grass border along a road'. It is respectfully submitted that the area of open space over which access is proposed, which has been developed and maintained by residents of the Loreto Park estate, is not a roadside verge.
- The City Development Plan 2014-2020 highlights the importance of open space provision and protection, even for smaller pockets of open space and acknowledges the important role they can play in defining the amenity of an estate.
- The subject area of open space is an attractive rockery planted out in shrubs and incorporates the existing Lime tree and has a backdrop of a historic section of stone boundary wall.
- The Board noted in refusing application 17/92 that the nature of the proposed development would not be compatible with the nature and pattern of uses in the vicinity. The nature of the proposed development has not changed, and it remains incompatible. The open space and surrounds are an established feature which makes a positive contribution to the amenity of Loreto Park estate. Their removal will adversely impact on this amenity.

Replacement Parking

- Bishop's Hill is a public road and provides vehicular access to 4 dwellings, including the applicant Carmel and Shane Dalton's house. They park on

Bishop's Hill, while other residents tend only to park outside their homes while dropping off and collecting household items such as shopping.

- The closing off of the garage entrance will not prevent the applicants continuing to park on Bishop's Hill.
- The disabled car parking space just beyond the existing garage was provided by the Council for the previous owner of Shane Daltons house, his uncle John Dalton. Contend that the previous owner never used the disabled parking space and instead parked in the garage, while the applicants never park in the garage.
- All houses along Bishop's Hill require the turning space in front of the applicants garage to turn, thereby allowing them to exit Bishop's Hill safely in a forward gear. Permitting the applicant to place a planter outside the existing garage to prevent parking, essentially transfers a piece of public property to the applicant for his personal use. The residents of the other houses on Bishop's Hill will be unable to turn their vehicles there if this is permitted.
- Proposals preventing the applicants from not using the garage will not change the usage of Bishop's Hill or prevent them from accessing their property and parking there. The granting of planning permission for an alternative access does not remove the perceived traffic hazard.

Loss of Turning Head / Parking

- The design of the current entrance arrangement sterilises the existing adjoining turning head/parking.
- The applicants have alternatives in terms of parking elsewhere.
- Any shift towards fewer parking spaces should not be at the expense of the entitlements of residents who have placed their trust in the Council to maintain the turning head/parking spaces for the benefit of the residents of the estate.
- Two shared spaces on common ground will be replaced by two private spaces on private land which the Loreto Park residents and their visitors will have no entitlement to.

Right of Way

- The applicant and the planning authority have ignored the fact that the applicant has more than 30m of frontage onto Bishop's Hill that is available to him to construct an entrance to his property. If the garage or open space between the garage and the right of way was utilised all the issues raised with access and parking would be eliminated.

6.2. Grounds of Appeal No. 2

- 6.2.1. A Third-Party appeal against the decision of the planning authority to grant permission was lodged by New Ground Ltd. on behalf of the Loreto Park Residents Association. The appeal was accompanied by land registry folio details and photographs (of the site, approaches to the site and from the surrounding area), along with extracts from Kilkenny Archaeology, and another planning application on a different site. The grounds of appeal can be summarised as follows;

Planning History

- History of unauthorised works, including part-demolition of the historic boundary wall to create an access to Loreto Park, construction of a single storey detached house in the garden, and a larger extension to No. 15 than permitted.
- Proposed access would facilitate piecemeal development and create an adverse precedent.

Traffic hazard

- Detrimental impact on road safety at Loreto Park estate.
- Unsafe access with inadequate sightlines, previous refusals on this basis.
- Lead to dangerous conflicting traffic movements and hazard to motorists and vulnerable road users/pedestrian in a cul de sac which is a 'shared road space' without footpaths and is crossed by a pedestrian right of way to the Nuns' cemetery.
- Insufficient legal rights/ownership rights over adjacent part boundary walls to carry out works.
- Boundary wall of No. 15 Bishop's Hill and No. 16 Loreto Park is a party wall up to the corner with the cul de sac. Permission refused on this basis on three occasions.

- Swept path analysis submitted by the applicant does not address sightlines or include analysis for larger vehicles.
- The planning authority had the opportunity to request further information in relation to kerbing and sightlines but did not do so.
- Request that the Board confirm its previous decisions and refusals by the planning authority to refuse permission due to the lack of sightlines.
- Obstruction of fuel deliveries and other deliveries/service vehicles.

Loss of 2 car parking spaces

- Retention of these spaces is a requirement under the parent permissions of the estate (KCC P64/87, Outline permission and P71/88, Approval).
- Spaces are used by visitors to the estate and are a requirement of DMURS and the relevant Development Management Standards.

Undesirable planning precedent for backlands access

- 'On site' parking has in other cases been refused permission e.g. P19/60 (copy attached).

Substandard Access to Loreto Park via Troys Lane

- Dispute assessment of planning authority that the proposed access from Loreto Park is safer than the existing access at Bishop's Hill.
- Troys Lane is a narrow historic laneway (NIAH ID 12003020 and ID 12003057) without footpaths and is the sole pedestrian and vehicular access to the wider local public road and footpath network from Loreto Park estate.
- Proposed development will result in an increase in turning movements from Loreto Park estate onto Troys Lane, which is a substandard, poorly aligned walled medieval laneway with two-way traffic, poorly aligned junctions, no footpaths and high stone walls at the immediate road edge, with consequent hazard to pedestrians and cyclists.
- Troys Lane is heavily trafficked in rush hours/school journey times, while in contrast Bishop's Hill is used at very low speeds by a very small number of users.

- No comparative safety study of the proposed new route and Bishop's Hill to Troys Lane has been carried out as part of the application assessment.
- The rationale for linking permission for the proposed development to closure of applicants' access to Bishop's Hill is flawed.

Inappropriate procedure to effect traffic restrictions on an existing public road / rights of way

- Bishop's Hill is a public right of way for pedestrians and vehicles.
- If the Council have serious safety concerns it remains open to them to apply appropriate legislation to limit or prevent the use of the lane.

Car parking in the historic St. Canice's ACA

- Bishop's Hill is a shared vehicular and pedestrian laneway that serves lands from the junction of Troys Lane northwards along the Freshford Road.
- The elevated road/lane at Bishop's Hill is recorded in the Buildings of Ireland NIA ID 12003018 and 120003052 dating from 1850 est.
- Bishop's Hill is located within the St. Canice's ACA, and Irelands' most intact medieval streetscape, within which parking and access arrangements such as those at Bishop's Hill are the norm within the St. Canice's ACA.
- Request the ABP's Inspector to drive or walk the lined lanes of Coach Lane and Troys Lane 'end to end' to obtain a perspective of the character and functioning of the ACA.

Lack of enforceability of condition regarding parking at Bishop's Hill

- The turning area for the lane for all users of vehicles entering the lane is to the fore of the applicants front boundary.
- The applicants do not use the garage for parking and park on a public area to the fore of their house or elsewhere at Bishop's Hill.
- The wording of the condition is unclear as to whether parking shall cease by the applicants only and or terminate access to Bishop's Hill entirely.

National Planning Framework: car parking

- NPF (Policy 13) is aimed at shaping new development, where locations suited for a lower parking requirement can be appropriately planned and developed.
- A reduced amount of parking provision at Bishop's Hill for safety may not need to be replaced.
- The NPF is aimed at future development, not retrofitting new standards across existing developments.
- Neighbouring dwellings at Bishop's Hill, and all of the adjacent Vicar's Street do not have on site parking, and there is no requirement for additional parking to be provided at the subject site, should its current access be closed to traffic by the P.A. for any reason.

Kilkenny County Council policy on parking in gardens

- Note the policy referring to 'parking in front gardens' and assert that the considerations equally apply to back garden on-site parking.

Adverse impacts on an existing mature lime tree within an ACA

- Proposed development would result in adverse impacts on and reduction in height of the mature lime tree which provides amenity to residents and visitors to the ACA.
- The tree is subject of policy 12.11.17 set out in the Kilkenny County Development Plan 2014-2020, which requires the retention of mature trees which contribute the character of the ACA.
- Its retention and protection is a condition of the parent permissions 64/87 and 71/88.
- The tree is visible and makes a positive impact on long views across Kilkenny City and from the Round Tower at St Canice's Cathedral.

St Canice's ACA and relevant related NIAH entries

- St. Canice's ACA comprises, in addition to the Cathedral itself and attendant grounds and structures, the most extensive area of late medieval urban fabric in Ireland and is designated for preservation in the Kilkenny County Development Plan.

- Contend that the sensitivity of the site with reference to archaeology and architectural heritage designations would be best addressed by retention of the wall in situ, and refusal of permission thereby avoiding impacts of demolition and ground disturbance.

Adverse impact on architectural heritage and local character

- Subject site recorded in the Buildings of Ireland National Inventory of Architectural Heritage as the new nun's graveyard and graveyard wall NIAH ID 12003021, the walls of Troys Lane (NIAH ID 12003020 and ID 12003052) and also the walls and structure of Bishop's Hill elevated laneway (NIAH ID 12003018 and ID 12003052).
- Adverse impact on the architectural heritage and to the character of the St Canice's Architectural Heritage Area as the high limestone boundary walls are an integral aspect of historic and aesthetic character.

Detrimental impact on built heritage – stone wall at eastern boundary

- The wall is over 2.5-3 metres in height and is a well-constructed Kilkenny limestone rubble stone wall, lime mortared, and is indicated on John Roques map of 1758, and possibly precedes 1700, and was the boundary wall of the nun's graveyard NIAH ID 12003021.
- Refers to the P.A. Conservation Officers report on the previous application (2017/92) which notes the NIAH designation as of Regional interest on social and artistic grounds.
- If a grant of permission was to be contemplated further archaeological assessment would be required.
- Strongly object to the proposed part demolition of this wall in a location at which it contributes to the amenity and character of their estate.
- Proposed new entrance as shown on drawing no. 1033-P010 would be a grandiose insertion of two stone pillars and ornamental iron gates, very different in character to the existing simple entrances within Loreto Park.

- The dimension of the opening is stated as 3 metres, however the gate piers as shown would require at least one further metre in total of rubble wall to be demolished.

Removal of shrubbery

- The landscaped shrubbery area in Loreto Park, abutting the proposed access and lime tree has been developed and maintained by Loreto Residents Association for approx. 30 years and contributes to the residential amenity of the area.
- Do not accept that the proposed site is a 'roadside verge' as cited in the planner's report.

Lack of Sufficient legal interest

- Residents of Loreto Park claim adverse possession of the landscaped area within Loreto Park estate, and do not give consent to the proposed works.
- The wall subject of the application is either entirely part of Loreto estate or is a party wall.
- Residents of Loreto Park were not consulted in 2018 prior to or after the 'taking in charge' of the common areas by KCC.
- With regard to the shrubbery - refer to Government Circular PD1/08 Taking in Charge, which recommends that such areas remain in the care of residents and should not be taken in charge.
- Refer to Section 5.13 of the Development Management Guidelines which refers to 'issues relating to title of land' and can provide any further information requested by ABP with regard to issues of ownership, if such information is available to them.

6.3. Applicant Responses

Response to Appeal No. 1

- 6.3.1. A response by Kieran O'Malley & Co. Ltd on behalf of the applicants to the third party appeal from Peter Thompson Planning Solutions on behalf of Charles and Anne Phelan, and Noel and Josephine Cuddihy, was lodged 30/08/2019.
- 6.3.2. This was accompanied by a copy of a warning letter dated 10/05/2013, letter of consent of to provide entrance to Loreto Park from Kevin Moore (Building

Contractor) dated 12/05/2011, Loreto Park Taking in Charge map, and Deed map for No. 15 Bishop's Hill. The response can be summarised as follows;

- *Parking area* - proposal would not result in the elimination of a vehicle turning head/parking area.
- *Legal argument* - all of the legal argument put forward in this appeal was considered and addressed by both KCC and ABP in the last application (P17/92 and PL10.249067).
- *Previous reason for refusal* - proposal sets out to address and overcome the Board's previous refusal.
- *Red line boundary* - Includes the entirety of the applicants property and a very small part of the public open space between the applicants boundary wall and the public road.
- *Validity of the application/ownership* - The application is a valid application and the Board is invited to re-affirm its previous position on this issue.
- *Clarification of ownership boundaries* – The boundary wall is not held in common or shared ownership and is in the ownership of the applicant.
- *Property rights* – The roads, open spaces, footpaths, etc. within Loreto Park have been taken in charge by the local authority.
- *Misleading terminology* – There is nothing misleading about the P.A.'s assessment, and the loss of a very small area of ancillary open space that has no recreational amenity function would not adversely impact on the amenity of Loreto Park.
- *Replacement parking* – Proposal would render the existing hazardous arrangement at Bishop's Hill redundant. The location of the proposed landscape planter is within the applicants landholding and include a deed map that shows the applicant's land outlined in blue.
- *Loss of turning head/parking* – Dispute that there were ever 2 no. visitor parking spaces adjacent to the appeal site and refers to Board Inspector's report which concurs.

- *Right of way* – The applicants do not benefit from the right of way, it is a right of way to other parties and not the applicants.

Response to Appeal No. 2

6.3.3. A response by Kiaran O'Malley & Co. Ltd on behalf of the applicants to the third party appeal from New Ground Ltd. on behalf of the Loreto Park Residents Association was lodged 05/09/2019. This included;

- Extract from the Planning Inspectors report on ABP PL10.249067.
- Letter dated 20/04/2016 in relation to the commencement of the taking in charge process of Loreto Park, with accompanying map.
- Extracts from the NIAH.
- Photographs dated 28/08/2019 of the lime tree at no. 10 being felled and the existing boundary wall at the appeal site.

The response and can be summarised as follows;

- *ABP Assessment and Decision PL 10.249067* – Contend that the proposal to construct a vehicular access to the appeal site at this location could not be more compatible with the nature and pattern of uses in the vicinity, and the current proposal addresses the previous reason for refusal by the Board.
- *Current appeal* - Repeats all the issues raised by the appellant in PL 10.249067, and notes that that none of the planning or legal issues were referenced in the Board's single reason for refusal.
- *Traffic Hazard* - Proposal does not constitute a traffic hazard and will not lead to an obstruction of fuel vehicles. Contend that the proposed access is a material improvement on the existing layout at Bishop's Hill that is hazardous to pedestrians and cyclists.
- *Loss of 2 car parking spaces* – It is not proposed to remove 2 car parking spaces.
- *Function of Loreto Park Residents Association* – The Roads, open spaces, parking, walls, etc. within Loreto Park were taken in charge by KCC on 20/04/2018.
- *Background* - there has not been a pattern of planning breaches since 2013 as erroneously claimed, and do not accept that the appeal is complex.

- *Description of the Proposed Development* – Accepts that the description does not refer to the off street parking, and if the Board consider it necessary, amended site notices can be re advertised and erected on site. Five NIAH ID's are mentioned and none apply to any part of the appeal site.
- *Development History of the Lands* – NIAH ID 12003021 relates to the nun's cemetery and part of its perimeter which would not be affected in any way by the proposal.
- *Planning History* – Repeat verbatim response to planning history as per the previous appeals in Ref. PL10.249067.
- *Undesirable precedent* – A review of P19/60 will confirm that the proposal is materially different as there was already a vehicular access and off street parking within Farmlea House, which is not the case in the current appeal.
- *Substandard access to Loreto Park via Troys Lane* – Contend that the proposed vehicular access far outweighs the existing access and parking arrangement.
- *Inappropriate Procedure to Effect Traffic Restrictions on an Existing Public Road/Right of Way* – Contend that it is inappropriate to continue the traffic, pedestrian and cyclist conflict at Bishop's Hill, and agree that this is an issue that Kilkenny County Council should address through the Road Traffic Acts. Notes that the designated disabled car parking space at Bishop's Hill has been removed.
- *ACA* – Appellants are factually incorrect in referencing NIAH ID 12003018 and 12003052 as both relate to walls and not the road or lane at Bishop's Hill. Proposal does not conflict with any of the 6 ACA Development Management Standards as set out in section 7.4.7.3 of the KC&EDP 2014-2020.
- *Lack of Enforceability of Conditions regarding parking at Bishop's Hill* – Appellant are factually incorrect with regard to dating the road structure at Bishop's Hill to mid-19th Century. Emergency vehicles cannot access Bishop's Hill at present and refers to a recent example of where an emergency vehicle called to the house and caused congestion and a hazard on the adjoining public road. Applicants do not park on the public area at Bishop's Hill, but rather on their own land which is in front of the garage door. The proposal to remove that option is enforceable by planning condition.

- *NPF* - Agree with the appellant that the NPF is aimed at future development and objective 13 relates to infill and brownfield development.
- *KKC Policy on Parking in Gardens* - Appellant is citing development standards from the wrong development plan i.e. the Kilkenny County Development Plan and not the KC&EDP 2014-2020.
- *Adverse Impacts on existing mature Lime Tree within and ACA* – There will be no adverse impact on the Lime Tree, which is not within the appeal site and is not subject to a tree preservation order. The nature scale and extent of the proposed works will reduce the level of ground compaction and minimise the any impact on this tree to avoid any adverse impact.
- *Archaeology* – The site is not located within or proximate to a recorded monument or within an area of archaeological interest. The P.A. did not attach a condition an archaeological monitoring type condition. Notwithstanding the applicant would accept such a condition if the Board considers it is required. Minimum works are proposed to the wall and have been deemed acceptable by the Council and previously by the Board.
- *Adverse Impact on Architectural Heritage and Local Character* – Disputed.
- *Detrimental Impact on Built Heritage* – This issue was assessed and dismissed by the Board in the previous appeal. Disagree that the boundary wall is identified on John Rocque’s map, as when compared to the OS Map submitted by Kilkenny Archaeology shows a distinct change in alignment of the wall.

6.4. **Planning Authority Response**

The planning authority confirmed its decision and refers to the planners report.

6.5. **Observations**

Two observations were lodged with the Board from the following parties;

- Fred and Helen Tuite 1 Loreto Park.
- Bortha Woudsma 12 Loreto Park.

Issues raised can be summarised as follows;

- Long planning history of refusals to both construct a new dwelling at Bishop's Hill and create a new entrance from Loreto Park.
- Applicant has not established sufficient legal title to make the application and carry out the proposed works.
- Proposed development would be detrimental to a significant architectural and archaeological site within St.Canice's ACA.
- New entrance via the cul de sac area of Loreto Park will lead to a traffic hazard.
- Inadequate sightlines.
- Increase in traffic in Loreto Park and on Troys Lane.
- Query the necessity of the proposed entrance, as no automatic right to park outside one's property.
- Proposal to block up the doors of the existing garage at Bishop's Hill is irrelevant to the proposal to provide a new entrance from Loreto Park.
- Loss of existing green area and two car parking spaces.
- Serious potential risk to the life of the Lime tree.
- Concerns in relation to surface water drainage given the difference in site levels.
- Suggests that the existing house and extension within the overall site are in dual ownership and may be subdivided into two units.

6.6. Further Response

6.6.1. A further Third Party response dated 04/09/2019 was lodged by New Ground Ltd. on behalf of the Loreto Park Residents Association, regarding the Third Party Appeal lodged by Peter Thompson Planning Solutions on behalf of Charles and Anne Phelan, and Noel and Josephine Cuddihy. The response can be summarised as follows;

- Inadvertently omits part of the wording of the Boards reason for refusal under PL10.249067. Submit that the Board clearly put weight on the history of disorderly and unauthorised development in deciding to refuse permission. Contend that the

use of the phrase not compatible in the previous reason for refusal includes the safety deficits of the proposed development.

- *Land Ownership and Consent* - Agree with and support points made in the above appeal.
- *Validity of the Application* – Application as lodged is not valid as written consent of the P.A/Loreto Park Residents or other relevant landowner was not included in the application.
- *Adverse Possession* – Confirms that the landscaped area, boundary wall and car parking spaces proposed to be removed are maintained by the Loreto Park Residents Association.
- *Disposal of Public Land* – Is a reserved function of the elected members.
- *Taking in Charge* – Does not give unlimited licence to develop or dispose of part of open space.
- *Definition of Verges/Policy on Verges* – Agree with the appeal statement that the rockery and shrubbery which forms part of the application site is not a roadside ‘verge’.
- *Parent Permission*- There is an obligation on the landowner to comply with conditions of the parent permission and to protect residential amenity. Land Registry Folio details of Kilkenny City Council attached to response. Request that the Board uphold the spirit of the parent permissions in the interest of orderly planning and development.
- *Error in Taking in Charge Boundary Adjacent to Application Site* – As indicated in the KCC Land Registration map, a copy of which is attached to the solicitors letter appended to the above appeal. Contend that Registration boundaries are not proof of ownership, and that the proposed access has no sight lines to the right for vehicles exiting no. 15 Bishop’s Hill in Loreto Park.
- *Ownership of the Estate Perimeter Wall* – Agree with the above appeal that the applicants do not own the wall at the site of the proposed development, located between Loreto Park estate and no. 15 Bishop’s Hill, and that a letter of consent is required from the owners to part demolish the wall and no such letter was submitted.

- *Traffic Hazard at Loreto Park estate and at Bishop's Hill* – Agree with the above appeal that the measures proposed do not offer a planning gain.
- *Removal of Car Parking* – Agree with the remarks in the above appeal.

7.0 **Assessment**

7.1. There are two Third Party appeals, and I consider it appropriate to consider them jointly. The main issues in both appeals are those raised in the grounds of appeal and I am satisfied that no other substantive issues arise. Appropriate Assessment also needs to be considered. The issues are addressed under the following headings:

- Access Parking and Traffic Safety
- Impact on Architectural Heritage
- Loss of Planting
- Other Matters
 - Sufficient Legal Interest
 - Validity of Application
 - Precedent

- Appropriate Assessment

7.2. I refer the Board to the most recent planning history on this site under P.A.Reg. Ref.P17/92 ABP Ref. PL10.249067 which was refused 03/04/2018 for a similar development.

7.3. The reason for refusal has been cited in section 4 above, which had regard to the planning history, and the proposal which did not include the entire site and dwelling at 15 Bishop's Hill, or a proposal in respect of the existing access from Bishop's Hill, the provision of a separate access, would constitute disorderly piecemeal development, and would therefore be contrary to the proper planning and sustainable development of the area.

7.4. It is important to note from the outset that the current proposal differs from the previous application under P.A.Reg.Ref.P17/92 ABP Ref. PL10.249067. The main

difference between the previous application and the current application relate to the application site area (0.3018ha) which includes the existing house, garden and garage which are accessed from Bishop's Hill to the east. By comparison the previous application related to a much smaller site area (0.0496ha) for the purposes of creating a new access from Loreto Park estate. The current application includes works to the eastern part of the site including the closure of the existing garage entrance and removal of parking from the narrow access roadway along Bishop's Hill.

7.5. I would also note that the taking in charge of roads footpaths and areas of open space was approved by Kilkenny County Council 20/04/2018. I am satisfied, therefore, that the current proposal is materially different to the previous proposal. The current application seeks to address issues raised in the previous application and reason for refusal. However, my assessment will focus on the current proposal on its own merits.

7.6. Access Parking and Traffic Safety

- 7.6.1. The existing house at no. 15 Bishop's Hill is one of 4 houses currently accessed via a narrow shared vehicular and pedestrian laneway which forms a junction with Troys Lane to the south.
- 7.6.2. The proposed vehicular access is located along the western/rear boundary of the existing house. It is proposed to provide access to a new driveway and parking area for two cars within the rear garden of the existing house.
- 7.6.3. The proposed access abuts a landscaped area of open space and parking area within a cul de sac of the Loreto Park estate. The estate comprises 15 no. houses, which are accessed from Troys Lane to the south.
- 7.6.4. The third party's have raised concern in relation to the principle of accessing the site from the rear/east via Loreto Park estate, and in particular via the turning area in the cul de sac and consequent loss of visitor car parking. The appellants note that there is already parking to the front/west of the property, and also allude to the potential subdivision of the site in the future. In relation to the latter, I consider that any subdivision of the site would be the subject of a future application which would be assessed on its own merits.

- 7.6.5. I note the report of the Roads section of the planning authority had no objections to the proposed access. I am of the opinion that the proposed access arrangement which is relatively level with the existing house is a reasonable solution to the restricted access, along the shared road/lane at Bishop's Hill at present.
- 7.6.6. The previous reason for refusal referred to the absence of a proposal in respect of the existing access from Bishop's Hill. In the current application the red line boundary extends to include the entirety of the applicants property, as well as the small area between the boundary wall and public road to the west. In this regard I am satisfied that the previous reason for refusal has been addressed, and the principle of creating a new vehicular access while restricting the use of the garage for parking is acceptable.
- 7.6.7. Concern has been raised in relation to the proposed parking arrangement and loss of car parking within the turning area in the Loreto Park estate. Concern has also been raised in relation to the current parking arrangement and restricted turning area along Bishop's Hill.
- 7.6.8. While I acknowledge that the existing turning area within Loreto Park is used as an informal car parking area, I noted from my site inspection that there is ample visitor parking within the estate, and in the cul de sac opposite. I note also that each house benefits from on-site parking. I would also note on the day of my inspection late afternoon mid-week, that there were no cars parked in this area, which although unmarked ostensibly provides for two spaces.
- 7.6.9. The applicant states in their response to the appeal that it is not proposed to remove the 2 spaces at this location. I have examined the drawings submitted including the swept path analysis and am reasonably satisfied that there is sufficient space for vehicles to manoeuvre and for at least one car parking space.
- 7.6.10. Notwithstanding, the planning authority had no objection to the loss of the visitor parking spaces and referred to Policy 13 of the National Planning Framework in support of their assessment. I would concur with the appellants and the applicant that this policy is aimed at future development rather than retrofitting new standards across existing developments.
- 7.6.11. Condition No. 8 of the notification of decision to grant planning permission requires that details of a revised parking bay bounding the proposed entrance be agreed.

- 7.6.12. In my opinion the issue of the loss of car parking spaces in what is essentially a turning area within Loreto Park is overstated by the appellants.
- 7.6.13. Concern has been raised with regard to traffic and pedestrian safety both within the Loreto Park estate and along Bishop's Hill which is a shared road/lane, and at its junction with Troys Lane.
- 7.6.14. Condition No. 5 (c) of the notification of decision to grant planning permission requires that upon the new entrance from Loreto Park becoming operational, the car parking spaces and vehicular access from Bishop's Hill cease on the basis of pedestrian safety.
- 7.6.15. The appellants contend that this condition in particular is unclear and unenforceable, and that the existing garage is currently used for parking.
- 7.6.16. I would concur with the applicant in that the proposed access would not give rise to a traffic hazard or obstruction of fuel vehicles etc. In practice cars entering and exiting the proposed entrance, will be travelling at very low speeds with low traffic volumes. In my opinion the proposed access is a material improvement on the existing layout at Bishop's Hill which is currently hazardous to pedestrians and cyclists, as is the junction of Bishops Hill with Troys lane for vehicles entering and exiting.
- 7.6.17. I did note from my site inspection that the disabled space road markings have indeed been removed , but that the existing conflict between pedestrians, cyclists and vehicles would be more appropriately addressed by the Roads section of the P.A.
- 7.6.18. I draw the Boards attention to the previous inspectors report in 2018 under ABP Ref.PL10.249067 which accepted that the proposed vehicular entrance did not give rise to a traffic hazard and the Boards reason for refusal, which did not refer to the principle of creating a new vehicular entrance or to the loss of/shortfall of car parking provision. I am satisfied that the current proposal addresses the previous reason for refusal.
- 7.6.19. I conclude, therefore, that there is no substantive basis to this ground of appeal and that the decision of the planning authority should be upheld.

7.7. Impact on Architectural Heritage

- 7.7.1. The proposed development comprises the opening of a new 3m wide vehicular gated entrance with gate piers, from Loreto Park estate through an existing rubble stone wall, providing access to and parking within the rear garden of No 15 Bishop's Hill.
- 7.7.2. The subject site is within the St Canice's ACA as identified on figure 7.8 of the Kilkenny City and Environs Plan (2014-2020).
- 7.7.3. Section 7.4.7.3 of the plan specifically refers to the St. Canice's ACA, which includes Development Management Standard SCACA 1: *To protect the historic and architectural character of St. Canice's Cathedral and its unique setting and to protect the grouping of the Cathedral, Library, Deanery, and other buildings associated with the administration of the Cathedral.*
- 7.7.4. The Third Parties have raised concern in relation to the impact of the proposed development on the ACA, and to the adverse impact on the architectural heritage and local character of the area. It is also submitted that the subject site is recorded in the Buildings of Ireland National Inventory of Architectural Heritage as the new nun's graveyard and graveyard wall NIAH ID 12003021 (see attached).
- 7.7.5. This, however, is disputed by the applicant and contends that the graveyard wall which is located at the entrance to Loreto Park estate does not refer to the section of wall subject of the current application. I have reviewed the relevant NIAH Inventory and I would concur with the appellant in this regard.
- 7.7.6. I note that no report was received from the Conservation Officer of the P.A. and the reference in the planners report to a verbal report, which cites the report on the previous application. The report of Conservation Officer of the P.A. dated 05/04/2017 notes that an ope was created in the western boundary and subsequently rebuilt in recent times had reduced the height of the wall in that area. The subsequent report dated 10/07/2017 recommended no objection.
- 7.7.7. I also note the comments of An Taisce which refers to the historic value of the existing fine limestone rubble wall, and that no other reports were received by the Board from any of the prescribed bodies to which it was referred.

- 7.7.8. In my opinion, the works proposed are relatively minor in the context of the overall ACA. The short section of wall (9.5m in length) to which the proposed new vehicular entrance relates is located at the end of a cul de sac, onto which none of the houses within Loreto Park estate directly face.
- 7.7.9. The appellants contend that the design of the entrance is grandiose and that the ornamental iron gates are out of keeping with the character of the area.
- 7.7.10. I have reviewed the design of the proposed entrance gates and piers as indicated on drawing no. 1033-P010, which comprise new galvanised and power coated metal gates coloured black and note that the stone piers are to be constructed from the demolished section of wall. I consider on balance, that the impact of the proposed development on the existing wall is overstated in the appeals, and that the proposed entrance will not seriously detract from the character, visual or residential amenity of the area.
- 7.7.11. It is also asserted that the location of the proposed entrance is archaeologically sensitive given its location within the ACA. The site however, is not located within or proximate to a recorded monument or within an area of archaeological interest. The P.A. did not attach an archaeological monitoring type condition. If the Board are minded to grant permission, I do not consider such a condition is warranted given the nature and scale of the proposed works.
- 7.7.12. I draw the Boards attention to the previous inspectors report and Boards reason for refusal in 2018 under ABP Ref.PL10.249067 which did not refer to the impact on architectural heritage.
- 7.7.13. I am satisfied, that the proposed vehicular entrance through the existing rubble stone wall, will not have an adverse impact on the architectural heritage of the area, the ACA, character of the area, or be detrimental to the visual or residential amenities of the area.
- 7.7.14. I am satisfied therefore, that there is no basis to refuse planning permission on these grounds.

7.8. **Loss of Planting**

- 7.8.1. The existing landscaped area abutting the rear boundary wall of house No. 15 and located within the Loreto Park estate includes planting which is to be removed to

facilitate the proposed development. The appellants have raised concern regarding the removal of landscape shrubbery and potential damage to an adjoining Lime tree.

- 7.8.2. I note the agreements in the appeal relating to the description of this landscaped areas as a roadside verge, which in my opinion is largely academic.
- 7.8.3. I also note that that the tree is not located within the appeal site nor is it specifically designated or identified for protection within the ACA. It is also noted that no report was received from the Parks section of the P.A.
- 7.8.4. An up to date tree report carried out by Darwin Tree Specialists Ltd dated 02/05/2019 was submitted by way of further information, and recommends specific works be undertaken which are similar to the previous recommendation in the tree report dated 26/01/2017 report on P.17/92.
- 7.8.5. I am satisfied, that subject to a condition in relation to proposed landscaping and tree protection measures that the proposed works and development will not have a detrimental impact on the existing Lime tree, or the residential and visual amenity of the area.

7.9. **Other Matters**

- 7.9.1. *Sufficient Legal Interest* – The appellants have raised concern in respect of the applicants’ legal interest to carry out the works particularly along the western boundary of the site, as they have not submitted a letter of consent from the appellants or the planning authority. I also note the various land registry folio details and maps submitted by the applicant and on appeal.
- 7.9.2. While in my opinion this is the crux of the current appeal, the issue of ownership/rights of way are civil matters and I not propose to adjudicate on this issue. I note here the provisions of s.34(13) of the Planning and Development Act: ‘A person shall not be entitled solely by reason of a permission under this section to carry out any development’. Under Chapter 5.13 ‘Issues relating to title of land’ of the ‘Development Management – Guidelines for Planning Authorities’ (DoECLG June 2007) it states, inter alia, the following: ‘The planning system is not designed as a mechanism for resolving disputes about title to land or premises or rights over land; these are ultimately matters for resolution in the Courts...’

- 7.9.3. I would also note that under ABP Ref.PL10.249067, a similar approach was adopted by the planning inspector. Notwithstanding, if the Board are minded to grant planning permission, an advisory note stating the provisions of section 34(13) of the Planning Act should be included.
- 7.9.4. *Validity of the Application* – The appellants have raised concern in relation to the validity of the application in the absence of written consent from the appellants or the planning authority. These are not matters on which the Board can adjudicate.
- 7.9.5. The appellants also note the description of the development which does not refer to the 2 proposed car parking spaces within the rear garden of the existing house. In my opinion I do not consider it necessary to require revised notices in this regard. The appeal before the Board is valid and the third party's right to participate is given full effect.
- 7.9.6. *Precedent* - In relation to the matter of precedent, I would note that each planning application is assessed on its own merits, having regard to the relevant planning considerations and site context. I am satisfied that the proposed entrance gate in this instance does not set an undesirable precedent.

7.10. **Appropriate Assessment**

Having regard to the nature and scale of development proposed and to the nature of the receiving environment, the intervening distances and to the lack of a hydrological connections, no appropriate assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect either individually or in combination with other plans or projects on a European site

8.0 **Recommendation**

- 8.1. I recommend that planning permission be **granted** for the following reasons and considerations. An advisory note stating the provisions of section 34(13) of the Planning Act should be included at the end of a decision to grant permission.

9.0 Reasons and Considerations

Having regard to the location of the site on residentially zoned lands, the pattern of development in the area, the nature scale and design of the proposed development and to the provisions of the Kilkenny City and Environs Development Plan 2014-2020, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the visual or residential amenities of property in the vicinity, would be acceptable in terms of pedestrian, traffic safety and convenience, would not be prejudicial to public health and would be in accordance with the provisions of the Kilkenny City and Environs Development Plan 2014-2020. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars submitted on the 1st day of February 2019 and the 14th day of June 2019, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. Works relating to the proposed vehicular entrance along the existing wall shall be confined to the creation of the entrance and associated piers. All details relating to the piers, the height of the adjoining wall and any repairs to the wall associated with the construction of the entrance and piers and of the materials used shall be submitted to and agreed with the planning authority prior to the commencement of any development works.

Reason: In the interest of the protection of the residential and visual amenities of the area.

3. The works relating to alteration to the internal road network and serving the proposed development shall comply with the detailed standards of the planning authority for such road works.

Reason: In the interests of amenity and public safety.

4. Drainage arrangements shall comply with the requirements of the planning authority for such works and services. Only clean, uncontaminated storm water shall be discharged to the surface water drainage system.

Reason: In the interest of public health.

5. Upon the opening of the new entrance from Loreto Park becoming operational the parking spaces and entrance to the site from Bishop's Hill shall cease.

Reason: In the interest of pedestrian and traffic safety.

6. Details of proposed landscaping and tree protection measures shall be submitted to and agreed in writing with the planning authority prior to the commencement of any development works.

Reason: In the interest of residential and visual amenity.

7. Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: In order to safeguard the residential amenities of property in the vicinity.

8. Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the "Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects", published by the Department of the Environment, Heritage and Local Government in

July 2006. The plan shall include details of waste to be generated during site clearance and construction phases, and details of the methods and locations to be employed for the prevention, minimisation, recovery and disposal of this material in accordance with the provision of the Waste Management Plan for the Region in which the site is situated.

Reason: In the interest of sustainable waste management.

Susan McHugh
Senior Planning Inspector

31st January 2020