



An  
Bord  
Pleanála

## Inspector's Report ABP-305206-19

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<b>Development</b>	Demolition of sheds and construction of an apartment block
<b>Location</b>	Chapel Lane Row, Ballincollig, County Cork
<b>Planning Authority</b>	Cork County Council
<b>Planning Authority Reg. Ref.</b>	19/5423
<b>Applicant(s)</b>	Liam McLaughlin
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Refuse
<b>Type of Appeal</b>	First Party
<b>Appellant(s)</b>	Liam McLaughlin
<b>Observer(s)</b>	Phil & Mary McCarthy Catherine Greene
<b>Date of Site Inspection</b>	15 <sup>th</sup> October, 2019
<b>Inspector</b>	Kevin Moore

## **1.0 Site Location and Description**

- 1.1. The 0.0377 hectare site of the proposed development is located at the western end of Chapel Lane Row which is south of Main Street and east of The Square in the town centre of Ballincollig in County Cork. The site consists of a disused yard and associated sheds. The planning application indicates that the site's most recent use was as a yard for storage of hobby vintage vehicles.
- 1.2. The site is bounded to the north, south and west by residential properties. The site is bounded to the east by commercial buildings, including a property owned by the applicant. There is an apartment block located opposite the entrance to the site. Parking occurs along the southern side of the lane serving the site and at the end of the lane adjoining the site entrance.

## **2.0 Proposed Development**

- 2.1. The proposed development would comprise the demolition of sheds and the construction of a four-storey apartment block containing six units oriented on an east west axis. The top storey of the building would be set back. 2 no. two bedroom, 2 no. two bedroom duplex style, and 2 no. one bedroom units would be provided. The total gross floor area of the development would be 444.5 square metres. The proposal would also include a bike store, bin store, private amenity space, landscaping and all associated development works.
- 2.2. Details submitted with the application included planning, infrastructure, and waste management reports and a letter from Irish Water confirming that a connection to the Irish Water network can be facilitated.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

On 24<sup>th</sup> July 2019, Cork County Council decided to refuse permission for the proposed development for three reasons relating to visual incongruity, impact on residential amenity, and inadequate car parking provision.

## **3.2. Planning Authority Reports**

### **3.2.1. Planning Reports**

The Planner noted the policy context for the development, the reports received and third party submissions made. The key planning issues were seen to be compliance with policy, access/parking/traffic, site services, and design/layout/impact on amenities. Concerns were raised about the height, scale, design and layout of the proposal, and the failure to provide on-site parking. The reduction in height of the building by one floor was not seen to address concerns of proximity to neighbours, impact on amenity, overlooking, overshadowing and overbearance. A refusal of permission for three reasons was recommended.

The Senior Planner concurred with the recommendation of the Planner.

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

The Public Lighting Section had no objection to the proposal subject to conditions.

The Architect was satisfied in principle with the proposal but considered the building was too high and did not integrate successfully with the site context. It was recommended that the development be reduced to three storeys.

The Area Engineer submitted there is no public car parking available to cater for the proposed development and that 7.5 spaces were required to be provided by the applicant.

The Estates Section requested further information in relation to the management of the development, clarity on the status of Chapel Lane Row, car parking, revised parking provisions, storm drainage, bin storage maintenance, and boundary treatment.

## **3.3. Prescribed Bodies**

Irish Water requested the submission of the outcome of a pre-connection enquiry to the planning department.

### 3.4. **Third Party Observations**

Objections to the proposal were received from Catherine Greene, Chris Hassett, Denis O'Donovan, Patrick and Mary Murphy, and Phil and Mary McCarthy. The observations to the Board outline the principal planning concerns raised.

### 4.0 **Planning History**

I have no record of any planning applications or appeals relating to this site.

### 5.0 **Policy Context**

#### 5.1. **Cork County Development Plan 2013-2019**

##### Housing

Objectives include:

##### **HOU 3-1: Sustainable Residential Communities**

- a) Ensure that all new development within the County supports the achievement of sustainable residential communities. The Council will have regard to the provisions of the Guidelines on Sustainable Residential Development in Urban Areas and the accompanying Urban Design Manual, in development plan preparation and in assessing applications for development through the development management process.
- b) Promote development which prioritises and facilitates walking, cycling and public transport use, both within individual developments and in the wider context of linking developments together and providing connections to the wider area, existing facilities and public transport nodes such as bus and rail stops ...

##### **HOU 3-2: Urban Design**

- a) Ensure that all new urban development is of a high design quality and supports the achievement of successful urban spaces and sustainable communities. The Council will have regard to the provisions of the Guidelines on Sustainable Residential Development in Urban Areas, the accompanying Urban Design

Manual and the Council’s Design Guide for Residential Estate Development in development plan preparation and in assessing applications for development through the development management process ...

**HOU 4-1: Housing Density on Zoned Land**

	<b>Min Net Density</b>	<b>Max Net Density</b>	<b>Comment</b>
High	35	No Limit	<ul style="list-style-type: none"> <li>• Applicable in town centres throughout the county and in other areas identified in LAPs normally in close proximity to Existing or proposed high quality public transport corridors</li> <li>• Normally requires/involves apartment development.</li> <li>• Subject to compliance with appropriate design/amenity standards and protecting the residential amenity of adjoining property and the heritage assets of town centres.</li> </ul>

Car Parking Requirements

1.25 spaces per apartment.

**5.2. Ballincollig Carrigaline Municipal District Local Area Plan 2017**

Zoning

The site and surrounding area is zoned ‘Town Centre’ with an objective, BG-T-04, seeking “Enhancement and regeneration of the existing town centre.”

### 5.3. **Appropriate Assessment**

It is reasonable to conclude that on the basis of the information on the file, which I consider adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on any designated European Site and a Stage 2 Appropriate Assessment and submission of a NIS is not therefore required.

### 5.4. **EIA Screening**

Having regard to the nature, size and location of the proposed development, there is no real likelihood of significant effects on the environment. No EIAR is required.

## 6.0 **The Appeal**

### 6.1. **Grounds of Appeal**

The grounds of the appeal may be synthesised as follows:

- The Council has failed to have regard to the national planning policy framework to facilitate infill and brownfield residential development and to support car-free, high density development on urban sites, which are proximate to priority public transport routes.
- The proposal represents a viable and appropriate design solution for the site. Notwithstanding this, an amended proposal for a three-storey building is included with the appeal if the Board considers it appropriate to approve. This comprises 6 no. apartments – two 2-bed units, three 1-bed units and a studio apartment. The report of the Council's Architect is referenced.
- Given the proximity of the site to public transport and urban amenities and the fact it is a brownfield, infill site within an area which has a mix of existing uses, including residential, the principle of residential development is entirely acceptable.
- The proposal is supported by the NPF, Draft RSES and the draft Cork Metropolitan Area Transport Strategy 2040.

- Amenity space is in excess of that required, the elimination of car parking for apartments in central locations is permissible in the County Development Plan and increased bicycle parking could be provided for on site.
- The building is not a tall building and its design would not be out of keeping with the character of the town. It has been designed in line with the Urban Development and Building Height Guidelines 2018 and specific design criteria have been used to make effective use of the site, to provide good quality apartments, and to protect existing residential amenity.
- Detailing of boundary finishes could be agreed with the planning authority. No third party properties have any rights of access across the site and the overhanging ventilation unit is redundant. Building up against property boundaries is a normal part of infill urban development and modern construction methods can deliver buildings in constrained sites without any structural impact on adjacent properties. The issue of asbestos at demolition stage of the existing sheds would be addressed by the contractor. The bin store would be controlled by a management company.
- The lack of parking is consistent with emerging planning and transport policy for urban areas to promote a shift from car based travel to public transport. Tenants/owners would be unlikely to choose to live in the properties if they had a requirement for parking. Providing parking would more likely create a hazard on Chapel Row Lane by increasing the number of movements on the lane. Visitors who may have a car could use available public parking. A light rail system is proposed under the draft CMATS.
- An attached letter from the applicant's Solicitor confirms the applicant's right of way access to the site over Chapel Lane Row.

## 6.2. Planning Authority Response

I have no record of any response to the appeal from the planning authority.

### 6.3. **Observations**

#### Observation from Phil and Mary McCarthy

The observers raise concerns relating to access to the site and to the observers' parking spaces at the rear of their offices, unsuitability of the development at this location and impact on residential amenity, the health hazard arising from asbestos sheeting on the site, lack of access for bin lorries, the applicant's diminished right of way over the lane, and the insufficiency of the proposed three-storey alternative.

#### Observation from Catherine Greene

The observer's property is located to the north-east of the appeal site. She raises concerns relating to impacts on light and privacy (including the alternative proposal), unsuitability of the development for the site, health hazard arising from asbestos, lack of access for bin lorries, traffic hazard along the lane, and lack of a legal right of way to develop the site and to occupy it. It is submitted that the alternative proposal would not integrate well with surrounding buildings, would not be in keeping with development plan policy, and would not address the impacts on her property.

## 7.0 **Assessment**

### 7.1 Introduction

7.1.1 I consider the main planning issues relating to the appeal are the principle of the development and the building design, impact on residential amenity, and access and parking.

### 7.2 The Principle of the Development and the Building Design

7.2.1 The site of the proposed development is located within the town centre of Ballincollig. It is an underutilised plot that is in the heart of the town centre. This site is zoned 'Town Centre' and an objective applies to this location which seeks enhancement and regeneration of the existing town centre (Objective BG-T-04). This



under-developed site is ideal in principle for new development to provide sustainable uses that add to the viability and vitality of the town centre. Residential development behind commercial properties in this town centre location would be compatible with the zoning provisions.

7.2.2 The form, height, scale and character of development in this town centre is varied, with properties in the immediate vicinity of the site comprising a mix of uses and building forms varying primarily between two and three storeys in height. In my opinion and having regard to an understanding of this site's context, the development of a contemporary apartment block could not be at variance with the array of building types in this town core. The site is underutilised town centre backland and a three or four storey block would be a suitable fit to achieve appropriate densities and to facilitate sustainable development at this serviced location. It is my submission, contrary to the planning authority's decision, that this proposed development would have little, if any, impact on the visual amenity of the area and could not reasonably be seen to detract from the visual character of the area having regard to its backland context and the array of disjointed development that prevails in the immediate environs of this site.

### 7.3 Impact on Residential Amenity

7.3.1 One must from the outset note the intrusiveness of existing adjoining residential properties that overlook the appeal site and by so doing seriously undermine the potential development of this town centre plot. I acknowledge the design of the proposed development. This design response seeks to address the residential and other commercial properties that are located close to the perimeter of this site. Balconies, fenestration in terms of siting and design, and other openings have been designed to minimise or eliminate the potential for overlooking of adjoining properties. On this issue of overlooking, I must again note that this is a town centre location where it is clear that there is a significant degree of overlooking by

established residential properties of other properties, inclusive of the appeal site. This would not be an unusual phenomenon in a built-up urban core. The development of a residential block on this site must seek to minimise the adverse impacts of overlooking by design in such a location and it is evident that the appellant has sought to achieve this.

7.3.2 In terms of overshadowing, I note the built-up character of this town centre location and the degree of overshadowing that would already occur in such a context for all properties on and in the vicinity of the site. I also note the siting and design of the proposed development relative to adjoining properties, which includes alignment with the properties to the east on Chapel Lane Row and separation from properties to the north-west and west. I consider the design response to this context to be acceptable and do not accept that this development would result in undue overshadowing of properties in the vicinity.

7.3.3 Regarding overbearing impact, I must again emphasise the town centre location of this site and acknowledge its backland character, the array of building types prevailing at this location, and the siting and separation of the proposed block from neighbouring properties. With due regard to its established context, the proposed development could not be seen to have any significant overbearing impact on neighbouring residential properties.

7.3.4 Further to the above, I note that the observers have submitted that the proposal would constitute a health hazard arising from asbestos sheeting on the site. This is a matter that can be safely dealt with at the construction phase of the development and should not pose any risk to public health when compliance is met with the requirements for the handling, removal and disposal of such materials.

7.3.5 Having regard to the above, I do not accept the planning authority's decision that the proposed development would have an adverse impact on the residential amenities of

neighbouring properties. A true understanding of where this site is and its established context, together with the design response to this, leads me to the conclusion that impact on the amenities of residents in this town core have been sufficiently addressed.

#### 7.4 Access and Parking

7.4.1 This is a key planning issue in assessing the proposed development. Congested access to this site via Chapel Lane Row and the lack of parking are serious deficiencies in providing for sustainable development on this site. The appellant is seeking to make no provision for cars. This inevitably would leave all future occupants relying on the town centre for their needs to reside at this location and on the sufficiency of public transport to meet their travel and commuter needs that cannot be met by walking or cycling.

7.4.2 Ballincollig is a town with a population close to 19,000 (Source: Census 2016). Its public transport links to Cork City, which would be the major employment centre for the wider area and provider of third level institutions, are mainly via a limited public bus service (No. 220). While the aspiration to make provision for apartment living in this town centre in isolation of parking for cars may be laudable, in practical terms such development is at best premature pending the provision of very significantly enhanced public transport services in Ballincollig. I do not foresee the provision of the necessary range and level of service being attained in the medium term for Ballincollig. There are no definitive plans or other schemes approved that would assure the delivery of the necessary services which would make the development of the proposed apartment block without on-site parking provision sustainable in this town centre at this time.

7.4.3 Further to this observation, I note that Cork County Development Plan expressly requires the provision of car parking for new apartment development at a rate of 1.25 spaces per unit. There are no exceptional circumstances that would warrant non-compliance with this basic requirement at this Ballincollig site. The precedent that

would be set and which could be taken up in towns throughout the county must be well understood. Such a precedent would encourage poorly serviced residential development on a widespread basis where limited public transport alternatives are available. I do not see the allowance of such development spearheading increased public transport provision in itself and, thus, it could not reasonably be seen as a catalyst for improved services in the immediate term.

7.4.4 With regard to Chapel Lane Row and the issue of congestion, I first note that this lane is a narrow road that allows for parking along its southern side and where vehicles park at the cul-de-sac end in the immediate vicinity of the entrance to the appeal site. There is also off-lane curtilage along its northern side which accommodates some parking to the rear of properties that front onto Main Street. Further to this, I note the reports of the Area Engineer and Estates Section. Both understand that Chapel Lane Row is not taken in charge. In the event of the planning authority being unable to control the form and pattern of parking and the maintenance of access to properties along this lane, there must be a concern that further development with access onto this lane would significantly further undermine the functioning of this road access. I would have no doubt that the provision of an apartment block, where there is no on-site / off-road parking to serve it, would result in the lane being used for parking associated with future occupants or visitors and there could be no control over this occurring. Thus, the proposed development could only be viewed as deficient in meeting the service needs of the occupants of the proposed apartments and would add to the congestion at this location leading to an increased traffic hazard. It is, therefore, accepted that the development as proposed would, with regularity, impede vehicular movement along the lane and that access to the rear of properties and servicing, such as access for refuse trucks, emergency services, etc., would be adversely affected.

7.4.5 Finally, I note that reference has been made in the observations to a diminished right of way over the lane. The applicant has provided a letter from a Solicitor referring to

this matter. I consider the applicant has demonstrated sufficient legal interest to allow the making of the application.

## **8.0 Recommendation**

8.1. I recommend that permission is refused in accordance with the following reason and considerations.

## **9.0 Reasons and Considerations**

It is considered that access and parking proposals to serve the proposed development are inadequate. In particular, the proposed development would fail to provide for necessary off-street parking and would give rise to a significant intensification of vehicular use of Chapel Lane Row and on-street parking on an existing congested access road. The proposed development would, therefore, endanger public safety by reason of traffic hazard and would, thus, be contrary to the proper planning and sustainable development of the area.

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Kevin Moore  
Senior Planning Inspector

24<sup>th</sup> October, 2019