



An  
Bord  
Pleanála

## Inspector's Report ABP-305890-19

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<b>Development</b>	Construction of 3 dwelling houses and all associated ancillary development works including access, parking, drainage, landscaping, and private amenity areas.
<b>Location</b>	40A High Street, Cork
<b>Planning Authority</b>	Cork City Council
<b>Planning Authority Reg. Ref.</b>	19/38263
<b>Applicant(s)</b>	Sinead Keohane
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Refusal
<b>Type of Appeal</b>	First Party -v- Decision
<b>Appellant(s)</b>	Sinead Keohane
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	31 <sup>st</sup> January 2020
<b>Inspector</b>	Hugh D. Morrison

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## 1.0 Site Location and Description

- 1.1. The site is located in Cork's southern inner city on High Street, which continues the WNW/ESE alignment of Douglas Road to the west on the far side of Summer Hill South/Langford Row. This site lies in a predominantly residential neighbourhood, which is characterised by street-fronted dwelling houses of mixed age and typology. It is situated in a backland position between High Street, to the north, and Windmill Road, to the south. The site is accessed off High Street, which rises at a gentle gradient from the west to the east.
- 1.2. The site itself is of largely regular shape and it extends over an area of 0.179 hectares. This site forms part of a former convent garden, which has been developed to the east to provide a multi-level dwelling house with a garden in a former quarry. It is continuous with the grounds to this dwelling house and it shares the same aforementioned access. The site is at a higher level than High Street and it is subject to gentle gradients that, like this Street, rise from west to east. Trees occur within the eastern portion of the site, especially, while the western portion is laid out as a lawn. An internal path runs alongside the northern boundary of the site. It is accessed at its eastern end by means of steps and it serves a freestanding single garage in the NW corner of the site. Fencing and hedgerows denote the site boundaries with external residential properties to the north, west, and south.

## 2.0 Proposed Development

- 2.1. The proposal would entail the constructed of 3 two-storey dwelling houses in an informal row across the site. Each of these dwelling houses would provide four-bed accommodation over a floorspace of 183.4 sqm. They would be served by a total of 7 car parking spaces, i.e. 2 for the residents of each dwelling house and 1 for visitors. A shared-surface road would link these dwelling houses to the existing access, which would continue to be used by the existing dwelling house to the east.
- 2.2. The dwelling houses would be a stubby "L" shape in plan-view. They would be of rectangular form under double pitched roofs. Their design would be contemporary with bands of brickwork accompanying ground and first floor openings. Elsewhere, render would be the finishing material to the walls and the roofs would be slated.

- 2.3. Under further information, the site layout was revised: the initial portion of new roadway would be wider, and this roadway would be of more meandering form. Likewise, the dwelling houses denoted as A and B would be re-orientated slightly to parallel the site's boundaries and the dwelling houses denoted as C would be re-specified as a three-bed one with a rectangular footprint.

## 3.0 Planning Authority Decision

### 3.1 Decision

Following receipt of further information, permission was refused for the following reasons:

- 1. Having regard to the layout of the local road network, it is considered that the proposed development access, by reason of location and scale, would result in unacceptable traffic manoeuvres and consequent traffic hazard on High Street and would set an undesirable precedent for similar future development in the area. The proposed development would, therefore, endanger public safety by reason of traffic hazard and would be contrary to the proper planning and sustainable development of the area.*
- 2. The proposed development is located in a designated Area of High Landscape Value where it is policy to retain the existing characteristics of the landscape and its primary landscape assets. The proposed development would result in a negative visual impact, would not be in accordance with Objective 10.4 of the Cork City Development Plan 2015 – 2021 and would therefore be contrary to the proper planning and sustainable development of the area.*

### 3.2 Planning Authority Reports

#### 3.2.1 Planning Reports

Under a request for further information, the following was requested:

- Omission of dwelling house proposed for the SE of the site and the re-siting of the 2 remaining dwelling houses in positions whereby they would ensure the maximum retention of trees.
- Submission of landscaping plans that show existing tree cover, that which would be retained, and proposed new tree cover.

- As plans for only one house type have been submitted, plans for the other house type should be submitted.
- Design revisions requested that would obviate the need for frosted glass to bedroom windows.
- Sightlines at the entrance should exhibit x and y dimensions of 2m and 45m.
- The proposed on-site access road should be fully designed as a self-evident shared surface.
- The site entrance should be designed to ensure the pedestrian priority is signalled.

### 3.2.2. Other Technical Reports

- Irish Water: No objection: Standard and site-specific comments made, including reference to the presence of a public sewer that traverses the site.
- Cork City Council:
  - Drainage: No objection, subject to conditions.
  - Environment: No objection, subject to conditions.
  - Environment Waste Management & Control: No objection, subject to the omission of the dwelling house proposed for the SE corner of the site.
  - Roads Design: Following receipt of further information, objection raised as requisite sightlines would not be available without the removal of on-street car parking spaces.
  - Archaeology: No objection, subject to a condition.

## 4.0 Planning History

### Site

- 08/33617: Two-storey dwelling house with a partial basement: Permitted.
- 19/1532: Certificate of Exemption to shadow current proposal granted on 15<sup>th</sup> March 2019.

Adjoining site to the north

- 09/34140: 2 two-storey dwelling houses: Permitted.

Adjoining site to the east

- 90/16214: Dwelling house on site of former convent: Permitted.

## 5.0 Policy and Context

### 5.1. Development Plan

Under the Cork City Development Plan 2015 – 2021 (CDP), the site is shown as lying within an area that is zoned for residential, local services, and institutional uses and designated as one of high landscape value, the primary landscape asset in this case being tree cover. (High Street itself is designated as a historic street character area and Douglas St. & Summer Hill South/Langford Row, to the west, are designated an ACA). Objective 10.4 addresses high landscape value. It states the following:

*To conserve and enhance the character and visual amenity of Areas of High Landscape Value (AHLV) through the appropriate management of development, in order to retain the existing characteristics of the landscape, and its primary landscape assets. Development will be considered only where it safeguards the value and sensitivity of the particular landscape. There will be a presumption against development where it causes significant harm or injury to the intrinsic character of the AHLV and its primary landscape assets, the visual amenity of the landscape; protected views; breaks the existing ridge silhouette; the character and setting of buildings, structures and landmarks; and ecological and habitat value of the landscape.*

### 5.2. Natural Heritage Designations

- Great Island Channel SAC & pNHA (001058)
- Cork Harbour SPA (004030)
- Cork Lough pNHA (001081)
- Douglas River Estuary pNHA (001046)
- Dunkettle Shore pNHA (001082)

### 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 – 2019, 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 0.179-hectare site to provide 3 new build 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 drawing attention to the request for further information, which implied that there was no in principle objection to 2 dwelling houses. A permission conditional on just 2 dwelling houses could therefore have ensued.

The applicant then proceeds to critique the two reasons for refusal as follows:

First reason

- The reference to “a proposed access” is mis-placed, as the proposal would utilise the existing access to the site, which was permitted under 90/16214 and which has functioned without incident since its construction.
- Use of the existing access, i.e. the manoeuvres involved, would be replicated under the proposal
- Objection now runs contrary to permitted application 08/33617, which envisaged the construction of a 500 sqm dwelling house on the site.
- The further information request referred to the need for sightlines (2m x 45m). The applicant showed such sightlines: the eastern to the kerbside and the western to the centre of the road, where the single through lane, as distinct from nearside on-street car parking spaces, pertains. This latter point of

reference is considered to be appropriate, where the opportunity to overtake does not exist.

- The possible removal of on-street car parking spaces would not establish an adverse precedent, as under ABP-302331-18 such a scenario was accepted on nearby Evergreen Road.
- An alternative approach to the said removal would be to recognise that traffic speeds on High Street are low, e.g. 30 rather than 50 kmph, due to the one lane to the east of the site access, which passes between on-street car parking spaces on either side. Thus, a relaxation in the y distance from 45 to 23m would be appropriate under DMURS, thereby negating any need for removal. The introduction of a speed ramp would effectively enforce lower speeds.

#### Second reason

- The reference to visual impact in the second reason for refusal is contrasted with the request for further information which was concerned only with the loss of trees and not the visual impact of the dwelling house *per se* in the SE portion of the site.
- Under the CDP zoning of the site, it would be ideal for infill housing, as it is conveniently located for a wide range of local services and institutional uses.
- Under the CDP there is a distinction between Landscape Protection Zones (LPZ) and Areas of High Landscape Value (AHLV). Thus, under the former, there are no underlying development objectives, while under the latter there are such objectives. The site is designated an AHLV rather than a LPZ.
- In the light of the foregoing, a balance needs to be struck between the retention of landscaping of amenity value and development, e.g. PL28.246275 at Cleve Hill, Blackrock Road, Cork. The Planning Authority's decision fails to strike such a balance.
- The case planner's reports are critiqued insofar as they refer to 08/33617 inaccurately and omit to interact with 09/34140, which, as it concerns residential development on the same overall former convent garden as the



current site, is of particular relevance. (Further to the east, this same garden was developed under 90/16214 to provide a dwelling house).

- Attention is drawn to site coverage, as distinct from density. Thus, when the current proposal is compared with the dwelling house (500 sqm) permitted under 08/33617, its aggregate site coverage would only be 10% greater.
- Attention is also drawn to the case planner's concerns over the "privatisation" of trees. This concern is mis-placed as they currently are situated in a private garden and they would be similarly situated in private gardens/communal spaces under the proposal.
- In terms of the public visibility of trees on the site, this is affected by the presence of a high boundary wall and gate onto High Street. Those trees that are visible lie to the east of the site access on the site that has already been developed.
- The backland nature of the site means that more extensive public views of the site are not available.

## 6.2. **Planning Authority Response**

No further comments.

## 6.3. **Observations**

None

## 6.4. **Further Responses**

None

## 7.0 **Assessment**

- 7.1. I have reviewed the proposal in the light of national planning guidelines, the CDP, 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) Planning history and national and local planning policies,
- (ii) Amenity,
- (iii) Traffic and access,
- (iv) Water, and
- (v) Stage 1 Screening for AA.

**(i) Planning history and national and local planning policies**

- 7.2. The planning history of the former convent garden indicates that the eastern portion and a central part of the northern portion have been developed to provide the applicant's existing multi-level dwelling house (90/16214) and a pair of street-fronted, two storey dwelling houses (09/34140). The current application site and the site that was subsequently developed under 09/34140 were the subject of a proposal for a two-storey dwelling house, which although permitted (08/33617) was not implemented.
- 7.3. The subject site is in use as a domestic garden. Under the CDP, the site is zoned for residential, local services, and institutional uses. Accordingly, there is no, in principle, land use objection to its development for more intensive residential use.
- 7.4. The Sustainable Residential Development in Urban Areas (SRDUA) Guidelines advise on density as does the CDP. These Guidelines advise that on former institutional lands average net densities of 35 – 50 dwellings per hectare should prevail. They also state that, where sites are beside public transport corridors or close to public transport nodes, net densities of 50 dwellings per hectare should be regarded as a minimum. The CDP acknowledges that in central and inner suburban (pre-1920) areas of the city residential densities are typically higher than 75 dwellings per hectare. New development therein will be influenced by planning considerations such as plot ratios, which for inner suburban (pre-1920) areas are 1.0 – 1.5.
- 7.5. The subject site has an area of 0.179 hectares. Under the proposal, it would be developed to provide 3 dwellings and so it would exhibit a density of 16.75 dwellings per hectare. As revised, the 3 dwelling houses would have a total area of 510.8 sqm, which would represent a plot ratio of 0.285. The applicant has drawn attention to the

fact that this ratio would be similar to that which would have arisen under the previous permission for the site, which was for 1 large dwelling house (08/33617).

- 7.6. The SRDUA Guidelines were introduced since the previous permission for the site was granted and with them a drive has ensued to ensure that the density potential of inner city sites is realised to a greater extent than heretofore. If the current proposal is compared with its predecessor, then some progress in this respect is apparent. However, in the light of the aforementioned national and local planning policies, such progress would *prima facie* be insufficient.
- 7.7. Under the CDP, natural and built environment conservation considerations have a bearing on the site's development, too. Thus, the site itself is recognised as being of high landscape value, due essentially to the tree cover that it affords, and which is visible from surrounding streets. High Street is designated a historic street character area and streets further to the NW are comprised in an ACA and so High Street, and by extension the subject site, affect the setting of this ACA.
- 7.8. The above considerations mean that, generally, the tree cover on the site needs to be conserved and the presence/visibility of new development within the streetscape is of some sensitivity. The applicant has thus submitted a tree survey of the site and cross sections of the proposal to assist in the assessment of these matters.
- 7.9. Clearly, a balance needs to be struck between the development and conservation objectives that pertain to the site. The applicant has sought to do so by means of a housing scheme that would comprise 3 relatively large detached dwelling houses with accompanying off-street car parking spaces and an on-site roadway. This scheme would be essentially suburban in character with some concessions to the urban location of the site in terms of the design of the dwelling houses and separation distances both within this site and between the proposed dwelling houses and adjacent existing dwelling houses outside it.
- 7.10. A comparison between the current proposal and its predecessor indicates that more trees would be affected, and the visibility of the proposal would be somewhat greater.
- With respect to the former, the siting of the proposed dwelling house across the site and the roadway layout would result in an increase in the loss of trees from the eastern end and centre of the site than previously envisaged. One

such tree would be the Atlantic Cedar, which at 15m is prominent both within the site and from external vantage points such as the eastern end of Douglas Street where it appears on the skyline of High Street. The Tree Survey identifies this tree as No. 915 and it describes it as being mature and in good condition. However, under an accompanying commentary, it is said that this tree could grow to 2.5 times this height and thus be “completely unsuitable for a modern town garden”.

- With respect to the latter, the siting of dwelling house C would cause it to be visible either through the site entrance or when the gates are closed over this entrance. The height of dwelling house A would cause it to be visible above the adjacent single storey, street-fronted dwelling houses on the southern side of High Street. Thus, the proposal would be more visible than its predecessor.

7.11. By way of evaluation, I consider that, notwithstanding the above cited commentary, the retention of the Atlantic Cedar would be desirable from a streetscape perspective and that with proper management its height need not become inordinate. The visibility of dwelling house C would not pose any streetscape issues. However, the visibility of dwelling house A would cause it to appear unduly dominant within the streetscape. I, therefore, do not consider that the proposal would meet the conservation objectives that pertain to the site within its context.

7.12. Turning again to the suburban character of the proposal, this character is partly shaped by the design of the proposed dwelling houses and partly by the specification of a roadway and car parking spaces. If it were to be set aside in favour of an alternative design approach that is informed by the opportunities of the site’s inner urban location, then both a higher density of development would be achievable and the greater fulfilment of the conservation objectives of the site within its context.

7.13. I conclude that the proposal falls short of meeting the national and local planning policy objectives for the site.

#### **(ii) Amenity**

7.14. Each of the proposed dwelling houses would afford a satisfactory standard of amenity to future residents in terms of floorspace, orientation, and accompanying garden area.

- 7.15. Dwelling house A would present its extended northern side elevation to adjacent single storey dwelling houses on the southern side of High Street. The separation distance between this elevation and the common boundary to the rear yards/passageways to these dwelling houses would be 5.586m. The applicant's cross section no. 2 shows how the level of the site would be comparable with the eave's height to these dwelling houses and so the proximity of the said elevation would would cause it to tower over them.
- 7.16. The principal elevations of dwelling houses B & C would face north and so they would correspond with the rear elevations of adjacent dwelling houses on the southern side of High Street. Separation distances to the common boundary to their rear gardens would be 10.178m and 10.676m, respectively. While first floor windows in the principal elevations would afford views into these gardens and into openings in the rear elevations of these dwelling houses, a measure of screening would be afforded by existing hedgerow and tree cover along the said boundary and such vegetation would be capable of being augmented in time by further planting.
- 7.17. I conclude that the proposal would afford a satisfactory standard of amenity to future residents. I conclude, too, that, while dwelling house A would be unduly dominant, dwelling houses B and C would, on the basis of further planting, be compatible with the existing amenities of the area.

### **(iii) Traffic and access**

- 7.18. The site entrance is in-situ and serves the applicant's existing dwelling house to the east of the subject site. Under 08/33617, this entrance would have served 1 additional dwelling house. Under the current application, it would serve 3 additional dwelling houses. Thus, an intensification in its use would occur.
- 7.19. To the west of the site entrance, High Street rises at a gentle gradient from its junction with Summer Hill South/Langford Row and Douglas Street. Both sides of this Street are the subject of on-street parking spaces and so there is only a single lane available for traffic to pass along. To the immediate west of the site entrance, the far side of the Street only is the subject of on-street parking and so a laneway of c. 4m width is available. During my site visit, I observed how vehicles travelling west tend to use the existing site entrance as an informal passing place in which to give way to vehicles travelling east through the two lines of parked cars.

- 7.20. The Planning Authority has critiqued the existing site entrance on the basis that, while its eastern sightline meets the relevant DMURS standard, i.e. 2.4m x 45m, the western one falls short, due to the presence of on-street parking spaces on the nearside of the Street, i.e. the available y distance is 23m.
- 7.21. The applicant has responded to the said critique by drawing attention to the fact that the site entrance has been in use for many years without any incidents. She also draws attention to the acceptance by the Board of the removal of on-street parking spaces in connection with an apartment scheme on nearby Evergreen Road (ABP-302331-18) and so, in principle, precedent exists for such removal. Alternatively, she contends that the lower traffic speeds on High St. arising from the presence of on-street parking would justify a relaxation in the y distance at issue. A speed ramp is suggested to ensure the same.
- 7.22. I note that the precedent cited was for a scheme that met relevant density objectives for the backland site in question and so the justification for its facilitation, which entailed the removal of on-street car parking spaces, was stronger than in the present case. I note, too, that the narrowness of the available carriageway between lines of car parking spaces is such that a traffic calming effect is observable. Consequently, the speed of vehicles travelling east is reduced and a degree of caution is also observable in vehicles travelling west and thus approaching the two lines of parked cars. I, therefore, consider that *prima facie* the case exists for the relaxation suggested by the applicant, subject to verification by means of a traffic speed survey. If such a survey failed to confirm the presence of a sufficiently low speed environment, then the possible installation of a speed ramp would need to be informed by a RSA.
- 7.23. I conclude that the proposed intensification of use of the site entrance would be likely to be acceptable, although insufficient information has been submitted to demonstrate that this would be so.

**(iv) Water**

- 7.24. High Street is served by a public water main and a combined public foul and stormwater sewer. Under the proposal, new connections to this main and sewer would be installed. Irish Water has raised no objection to the same. It has, however, drawn attention to the presence of a public sewer that crosses the site. This sewer

does not appear to have been identified on the submitted plans and so its implications for the development are unclear.

- 7.25. The applicant has submitted plans of the on-site water supply and drainage networks. Irish Water and the Planning Authority's Drainage consultee have commented on these plans at the level of technical detail.
- 7.26. Under the OPW's flood maps, the site is not shown as being the subject of any identified flood risk.
- 7.27. I conclude that, subject to the identification of a public sewer on the site, the proposal would be capable of being satisfactorily served by existing public water infrastructure.

#### **(v) Stage 1 Screening for AA**

- 7.28. The site does not lie in or near to a Natura 2000 site. This site is an inner urban one and it lies within a fully serviced area. Accordingly, its development to provide a small housing scheme would raise no Appropriate Assessment issues.
- 7.29. Having regard to the nature and scale of the proposal, the nature of the receiving environment, and the proximity to the nearest European site, 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 Conclusion and Recommendation**

- 8.1. In the light of my assessment, I conclude that the design approach adopted for the site militates against the realisation of its density potential, notwithstanding conservation considerations. I have also concluded how this approach has adverse conservation and amenity implications and that, with respect to the access question and the presence of a public sewer on the site, the applicant has submitted insufficient information. In drafting my reasons and considerations below, I have followed the convention that the underlying issue with the proposal should be addressed rather than the subsidiary issues.
- 8.2. That permission be refused.

## 9.0 Reasons and Considerations

Having regard to the advice on residential density set out in both Chapter 5 of the Sustainable Residential Development in Urban Areas Guidelines and Sections 16.40 – 16.42 of the Cork City Development Plan 2015 – 2021, it is considered that, notwithstanding the designation of the site as an Area of High Landscape Value, its inner city location is such that the essentially suburban style development proposed for this site would yield too low a residential density. Accordingly, under this proposal the residential density objectives of the said Guidelines and Development Plan would be frustrated and so the proper planning and sustainable development of the area would not be promoted thereby.

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Hugh D. Morrison  
Planning Inspector

12<sup>th</sup> February 2020