



An  
Bord  
Pleanála

## Inspector's Report ABP 307680-20

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<b>Development</b>	Construction of 67. No housing units and associated works.
<b>Location</b>	Junction of Hawke's Road and Bishopstown Road. Bishopstown. Cork.
<b>Planning Authority</b>	Cork City Council
<b>Type of Application</b>	EIA Screening Determination
<b>Applicants</b>	Connie Creed John P Murphy
<b>Date of Site Inspection</b>	September 8 <sup>th</sup> , 2020.
<b>Inspector</b>	Breda Gannon

## 1.0 Introduction

- 1.1. Under the provisions of Article 120(3)(b) of the Planning and Development Regulations 2001, as amended, Ms Connie Creed and Mr John Murphy are seeking a determination from An Bord Pleanála, as to whether or not the proposal to construct 67 no. residential units and associated development would be likely to give rise to significant effects on the environment, and thereby require the preparation of an Environmental Impact Assessment Report (EIAR). Cork City Council are of the opinion that the works do not require an EIAR and has initiated the process set out in Part XI of the Planning and Development Act 2000, as amended and Part 8 of the Planning and Development Regulations, 2001, as amended.
- 1.2. There is a concurrent request for the Board to make a screening determination under Article 250 of the Planning and Development Regulations 2001, as amended, as to whether the development application would be likely to have significant effects on a European site requiring Appropriate Assessment (ABP-307670-20).

## 2.0 Site Location and Description

- 2.1. The site is located in Bishopstown in the south-western suburbs of Cork city and is approximately 4km from the city centre. The site, which has a stated area of 1.06ha, lies at the junction of Hawke's Road and Bishopstown Road. It is bounded by Bishopstown Road to the south, by Hawke's Road and existing residential development to the east and existing residential development to the north and west. The site would be accessed from the south off Bishopstown Road and is connected to the N40 a short distance away at the Bandon Road Roundabout (Junction 3).
- 2.2. The area is predominantly residential in character comprised of detached/semi detached dwellings on substantial sites. The site is located close to local services/shops at Curraheen Road and to Wilton Shopping Centre. The area is also well serviced by several health and community facilities including Cork University Hospital (1.2 km) and Cork Institute of Technology.

### **3.0 Proposed Development**

3.1. The proposal is to construct 67 no. apartment units over 8 blocks ranging in two and three storey blocks together with ancillary development. The scheme would include the following accommodation:

- 10 no.1 Bedroom Apartments
- 17 no. 2 Bedroom Apartments
- 34 no. 2 Bedroom Maisonette Units, and
- 6 no. 3 Bedroom Maisonette Units.

3.2. It also includes 23 no. car parking space and 34 no. bike parking spaces, public open space and landscaping. The site would be accessed off the Bishopstown Road and the development would be connected to public water and foul water services at the front of the site. The wastewater generated by the proposed development would be treated in the Carrigrennan WWTP, located c.12km to the east at Little Island.

### **4.0 Request for Direction and Submitted Documents**

4.1. A request was submitted by Connie Creed and John Murphy seeking a determination by the Board as to whether EIA would be required for the proposed development. The following summarises the content of these submissions.

4.2. In a letter received by the Board on July 15<sup>th</sup>, 2020, Ms Connie Creed, Bishopstown Residents Association, raised concerns regarding the authenticity of Cork City Council's screening process. She noted conditions attached to a previous decision (05/30273) which required that measures be put in place to protect birds, bats, trees and hedgerows. These environmental considerations were not addressed in the current application.

4.3. Other issues raised related to the lack of traffic assessment and safety report where a 67-unit development is replacing two bungalows with access onto a major city artery close to a busy junction. It is also contended that the occupancy figures for the development are incorrect and misleading and will have a material impact on technical aspects of pre-screening.

- 4.4. In a letter received on July 17<sup>th</sup>, 2020, Mr John Murphy raised issues with the EIA Screening Report stating that it was deficient and inaccurate. He also raised concerns regarding the lack of consideration of bat populations on the site which were deemed sufficiently important to warrant protection in a previous planning permission (Condition No 15 of 05/30273).
- 4.5. It was also Mr Murphy's understanding that a Part 8 site notice should state that an interested party can request An Bord Pleanala to make an EIAR screening determination within 4 weeks from the date of the notice. This was not adhered to.
- 4.6. In response to correspondence from the Board dated July 27<sup>th</sup>, 2020, Cork City Council confirmed that the development would be subject to the process set out at Part XI of the Planning and Development Act, 2000, as amended and Part 8 of the Planning and Development Regulations, 2001, as amended. The submission which was received by the Board on August 18<sup>th</sup>, 2020 included the information specified in Schedule 7A for the purposes of the screening determination. It also includes the following documents:
- Copy of site notice and newspaper notice.
  - Planning Statement
  - Architectural Design Statement
  - AA Screening Report
  - EIA Screening Report Architectural Drawings
  - Infrastructure Report
  - Outdoor Lighting Report
  - Engineering Drawings
  - Architectural Drawings

## 5.0 Policy Context

- 5.1. Under the provisions of the Cork City Development Plan 2015 -2021 the site is zoned 'Residential Local Services and Institutional Use with the following objective:

*'To protect and provide for residential uses, local services, institutional uses and civic uses, having regard to employment policies.*

## 6.0 Planning History

6.1. The planning statement prepared in support of the development provides some detail on the planning history relating to the site, which relates to residential development or modifications to same. The most recent decision was in 2008 (08/32995) and related to alterations to previously approved development under 06/31158 and 05/30273

## 6.2. Natural Heritage Designations

There are no Natura 2000 site proximate to the site. The closest are Cork Harbour SPA and Great Island Channel SAC located 5.93km and 12.67km respectively to the east. The latter is designated for two habitats (Mudflats and sandflats & Atlantic salt meadow) and the former is designated for a range of bird species. There are pNHA's closer to the site including Lee Valley to the north and Cork Lough to the north east.

## 7.0 Legislation and Guidelines

### 7.1. Planning and Development Act 2000 (as amended)

**Section 172(1)** states that an EIA shall be carried out in respect of certain applications for consent for proposed development. This includes applications for 'sub threshold' development, namely those which are of a Class specified in Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended, but do not exceed the relevant quantity, area or other limit specified and the competent authority determines that the proposed development would be likely to have significant effects on the environment.

**Section 172(1A)** specifies that the above is relevant to development that may be carried out by the local authority under Part X.

### 7.2. Planning and Development Regulations 2001 (as amended)

7.2.1. **Article 120(3)(b)** states that any person at any time before the expiration of 4 weeks beginning on the date of publication of the notice may apply to the Board for a

screening determination as to whether a development proposed to be carried out by a local authority would be likely to have significant effects on the environment.

7.2.2. **Article 120(3)(c)** indicates that such applications for screening determination shall state the reasons for the forming of the view that the development would be likely to have significant effects on the environment and shall indicate the class in Schedule 5 within which the development is considered to fall.

7.2.3. **Schedule 5** of the Regulations sets out the classes of development where EIA is required.

Part 1 – Sets out the development classes which are subject to mandatory EIA.

Part 2 –Sets out development classes subject to EIA where they exceed a certain threshold in terms of scale or where the development would give rise to significant effects on the environment.

7.2.4. **Schedule 7** – Sets out the criteria for determining whether a development would, or, would not be likely to have significant effects on the environment, under three headings-

1. Characteristics of the proposed development.
2. Location of the proposed development.
3. Types and characteristics of potential impacts.

7.3. **Schedule 7A** - relates to information to be provided by the applicant or developer for the screening of sub-threshold development for the purposes of EIA. The requirement for the submission of this information in the case of requests to the Board for a determination under Article 120(3) of the Regulations arises on foot of revisions to Article 120(3) introduced by the EU (Planning and Development) (Environmental Impact Assessment) Regulations, 2018. The changes to Article 120(3) introduced by these regulations came into effect on 1<sup>st</sup> September 2018.

## 8.0 **Assessment**

The proposal is to development a scheme of 67 no. apartments and associated site works and services at Bishopstown Road, Bishopstown. Co Cork. The question for determination by the Board is whether the proposed development requires

environmental impact assessment to be carried out. An Environmental Impact Assessment Screening Report supports the planning authority's submission, which concludes that the potential for significant effects is negligible and that an EIAR is not required in respect of the proposed development.

The following matters are considered relevant in the assessment of the requirement for the submission of an EIAR in this case.

- Assessment of project type/class of development under Schedule 5 of the Regulations relevant to the proposed development.
- Assessment of relevant thresholds under Part 2 of Schedule 5 of the Planning and Development Regulations, 2001, as amended.
- Assessment of proposal under the criteria set out Schedule 7 of the Planning and Development Regulations 2001, as amended/Annex 111 of the EIA Directive 2014/52/EU.

#### 8.1. **Relevant project types/class of development**

8.1.1. The referrers' have not indicated the class in Schedule 5 of the Planning and Development Regulations, 2001, as amended, within which the proposed development is considered to fall.

8.1.2. The project type is infrastructure comprising the construction of dwelling units and also urban development due to the location of the site in a developed area and on zoned lands within the identified development boundary of Cork city as set out in the Cork City Development Plan 2015-2021. The relevant classes of development applicable to the proposed project which is the subject of this referral are as follows:

- Class 10(b)(i) of Part 2 of the Fifth Schedule of the Planning and Development Regulations, 2001, as amended (Construction of dwelling units)
- Class 10(b)(iv) of Part 2 of the Fifth Schedule of the Planning and Development Regulations, 2001, as amended (Urban development).

8.1.3. It is therefore my opinion that the proposed project involves development that is of a class for the purposes of Environmental Impact Assessment.

**8.2. Relevant threshold under Class 10(b)(i) and Class 10 (b)(iv) of Part 2 of Schedule 5 of the Planning and Regulations, as amended.**

The threshold cited under Class 10(b)(i) in the Regulations is the *'construction of more than 500 dwellings*. The proposal involves the construction of 67 no. apartment units. The proposed development is therefore listed in Part 2 of the Fifth Schedule and is of a Class, but is sub-threshold for the purposes of mandatory EIA, comprising fewer than 500 dwellings.

The threshold cited under Class 10(b)(iv) in the Regulations is *'urban development which would involve an area greater than 2 hectares in the case of a business district, 10 hectares in the case of other parts of a built up area and 20 hectares elsewhere'*. The proposed development would be accommodated on a site of 1.06 ha. Therefore, while the proposed development is of a Class listed in Part 2 it is sub-threshold for mandatory EIA.

An assessment as to whether the project would be subject to EIA having regard to the criteria set out Schedule 7 of the Planning and Development Regulations 2001, as amended, is set out below.

**8.3. Assessment of the development under the criteria set out in Schedule 7 of the Regulations**

Schedule 7 lists the criteria for determining whether a development would or would not be likely to have significant on the environment under the following headings:

- Characteristics of proposed development
- Location of proposed development
- Types and characteristics of potential impacts

**8.3.1. Characteristics of proposed development**

Size and scale of proposed development

The proposal is for a scheme of 67 no. apartments on a site of 1.06ha. It comprises an infill development in an urban location on zoned lands, which will be connected to existing infrastructure. The site is surrounded by relatively low-density residential developments which are predominantly single and two-storey in scale. The proposal will introduce a higher density development into the site. Some of the proposed



blocks are three-storey, however these are located at strategic locations within the site, which adds definition to the overall scheme. It is considered that the site has the capacity to accommodate the development and that the proposal would not be significantly at variance with the established pattern of development in this suburban area.

Having regard to the nature and size/scale of the proposed development, which is significantly below the thresholds set out in Part 2 of the Fifth Schedule of the Regulations, I do not consider that a requirement for EIA arises.

#### Potential for cumulative impacts with other existing and/or approved projects

The development site is surrounded by established residential development and it is likely that any proposals in the immediate vicinity are likely to be small scale and that cumulative impacts will not arise.

I am not aware, and Cork City Council have not provided any details of any significant development proposals existing/planned in the area that would result in in-combination effects. This being said, should the construction of the proposed development occur in tandem with other urban development, there is potential for cumulative impacts to arise including traffic, noise, dust and visual impacts. These impacts would be temporary and short-term. Based on the information available, the existing site context and available infrastructure, it is considered unlikely that these impacts would be of a magnitude that would generate the need for EIA.

#### Nature of any demolition works, use of natural resources, production of waste, pollution and nuisances

There are no buildings/structures on the site that require demolition. The nature and scale of the development, which comprises a medium scale residential scheme, would not result in a significant use of natural resources. The development will be connected to existing public infrastructure and Irish Water have confirmed that a connection to the water supply would be available Irish Water have also confirmed that the existing sewer network in the Bishopstown area is currently overloaded and that upgrades will be required to facilitate the development.

I note that stormwater will be managed on site to mimic greenfield run-off rates. A storm water attenuation tank will be provided on the site, designed to cater for the 1 in 100-year storm event and to facilitate controlled discharge during storm

conditions. The local authority has confirmed that the WWTP has capacity to cater for the development.

Production of waste will be kept to a minimum on site and all wastes generated by the construction process will be stored and managed to ensure environmental protection. Waste materials will be segregated and stored in designated areas prior to removal off site.

The potential for pollution and nuisance arising from an urban development of this scale would be limited. The construction phase will result in noise, dust, and traffic related impacts with the potential to cause nuisance and impact on the amenities of adjoining dwellings. However, these impacts will be temporary and short lived.

I consider that an urban infill project of the scale proposed has limited potential for significant effects arising from the use of natural resources, the production of waste or the generation of pollution and nuisance to warrant EIA.

#### Risk of major accidents and/or disasters including those caused by climate change

Having regard to the location, nature, scale and characteristics of the proposed development, comprising a medium sized residential scheme and associated infrastructure, it is considered that there is negligible risk of a major accident and/or disaster.

#### Risk to human health

There are no significant risks to human health associated with the proposed development. The risk to human health arising from water contamination, air pollution, noise etc is considered to be negligible and not of a magnitude to generate a requirement for EIA.

### **8.4. Location of proposed development**

#### Existing and approved land use

The site is currently vacant but is zoned for residential use. It is fenced off, overgrown and detracts from the amenities of the area. There are a number of unmanaged trees/hedgerows on the site which are of limited amenity value. The proposed residential development would complement the pattern of development in the area and not result in any significant adverse impacts on land use.

### Relative abundance, availability, quality and regenerative capacity of natural resources

The site in its existing state is a resource in that it is an undeveloped area within the built environment that is potential habitat for flora and fauna. All vegetation on the site will be removed to make way for the development, which will result in habitat loss and disturbance/displacement of any wildlife that currently uses the site. Due to the location of the site within the built-up suburbs of Cork city, there is limited similar undisturbed habitat in the vicinity for birds and mammals that may use the site.

However, the surveys conducted on the site reveal that the habitats are of low ecological value and no protected mammals were recorded within the site. While, the observers state that bats use the site, there are no buildings on the site that would provide roost sites. The loss of habitat will be compensated to a degree by the open space and trees proposed as part of the scheme.

The nature of the proposed development is such that the natural resources used in the proposed development are limited and there would be minimal ongoing use of natural resources from the proposed use of the site for residential purposes. There is no potential for significant effects.

### The absorption capacity of the existing environment

The site is located within the suburbs of Cork city and is surrounded by residential property. It is not located proximate to any sensitive area including riparian zones, wetlands, mountain and forest areas, coastal areas, the marine environment, nature reserves/parks etc. The ecological value of existing habitats within the site is assessed as low and there is no indication that the site is a habitat for any protected or rare species. The site has been screened for appropriate assessment and this matter is considered in more detail under the AA Screening determination (ABP 307670-20). There are no designated landscapes, or sites of historical, cultural or archaeological significance in the vicinity of the site.

The immediate environment associated with the site is not considered sensitive and has the capacity to absorb the proposed development without generating significant effects on the environment and the requirement for EIA.

## 8.5. Types and Characteristics of the Potential Impact

### Nature, magnitude and extent of the impact

The extent of the impact in terms of *geographical area* and the size of the population likely to be impacted is limited to the immediate area of Bishopstown, where the development will be located. The construction stage will result in impacts on the local population arising from dust, noise and traffic. These will be of short duration and capable of effective mitigation by normal good construction and best practice methodologies.

The redevelopment of the site will have generally positive *visual impacts* for the area associated with the removal of an existing eyesore and the creation of a new frontage on a prominent corner. While there are trees on the site, these are unmanaged and in an overgrown setting and do not contribute to the visual or residential amenities of the area. The proposed development will not impact on any protected views identified in the development plan.

In terms of *biodiversity*, the proposed development will result in the loss of habitats that existing on site. The habitats which were recorded during the site visit and classified (Fossit, 2000), were rated of low ecological value and noted to be common in the wider landscape. No habitats listed as qualifying habitats for the SAC or corresponding with Annex 1 were identified. No high-risk invasive species were recorded.

A mammal survey was also undertaken and no protected mammals (otter, badger, bats) or signs of protected mammals were recorded. The bird species recorded within the site are listed in Table 8 of the AA Screening Report and are common in the Irish landscape. None of the bird species that occur on the site are qualifying interests of Cork Harbour SPA. No Red List bird species were recorded. Robin, Starling and Goldcrest are of moderate conservation concern (amber listed).

The existing habitats would produce refuge and foraging habitat for the species of birds and mammals that may use the site and removal would result in their displacement. These impacts are not considered to be significant having regard to the low ecological value of existing habitats and the species of birds and mammals that may use the site.

The submissions refer to potential impacts on bats on the site and note the requirements for the protection of same under a previous planning permission. This condition was not repeated in a subsequent appeal (PL 28.216282). In response Cork City Council notes that at the time of the permission (2005) there were buildings/trees on the site which have subsequently been removed. While I note that the site survey did not identify any suitable habitat, this does not remove the local authority's obligations to protect any bat species that may occur on the site under the provisions of the Wildlife Acts.

It is acknowledged that there is the potential for significant effects to occur during the operational phase of the development on Natura 2000 sites to the east associated with Cork Harbour, including Great Island SAC and Cork Harbour SPA. This matter is considered in more detail under the AA Screening determination (ABP 307670-20).

The proposed development will result in limited impacts on *land and soil* which will be negligible having regard to the limited size of the site. No watercourses were identified on, or, within the immediate vicinity of the site. Subject to best practice construction methodologies and environmental controls, there is no significant risk to ground or surface *water quality*.

There is potential for impacts on *air and climate* and *noise and vibration* to occur during the construction phase. Having regard to the temporary nature of the works, these impacts would be short term and capable of effective mitigation through good construction practice.

This site is within a built-up residential area and is removed from any protected structures. There are no known archaeological monuments proximate to the site. No potential significant impacts on *cultural heritage* have been identified.

Arising from these limited impacts, the nature and scale of the development and its relationship with the surrounding land uses, it is not considered that the proposed development would have a significant impact on *material assets* in the locality. The proposed development will be connected to the public water main and public sewer.

It has been confirmed by Irish Water that a water supply connection could be facilitated and Cork City Council have stated that the WWTP plant for the city has the capacity to treat the effluent arising from the proposed development, which has a

population equivalent of 202.5 persons. It further refutes the contention by Mr John Murphy that a PE of 340 would be a more accurate reflection of the development. This would suggest that each unit would have an average occupancy of 5 persons, which is not the case. While it has been confirmed that the treatment plant has the capacity to cater for additional discharges, I accept based on the mix of units proposed (10 no. one bedroom units and 52 no. two bed and 6 no. three bed units) that a PE of 340 is likely to be an overestimation of the potential occupancy rate.

The issue of increased traffic is raised in one of the submissions. The site formerly accommodated 2 no. bungalows and it is contended that the current proposal will significantly increase the traffic generated by the site, with impacts on the adjoining road network. The volume of car parking to be provided on the site (23 no. spaces), which equates to 0.5 spaces per unit) is significantly below the development plan requirement and a total of 34 no. bike spaces is proposed. This will limit the volume of traffic generated by the development and promote modal shift. The site is also within walking distance of local services and a bus service which provides regular services to the city centre.

In response to the issue of congestion at the junction, the local authority note a Traffic Safety Audit addressed this matter and noted that peak time queuing along the Bishopstown Road would impede traffic entering/leaving the development. It was concluded that the provision of a yellow box at the entrance would address this matter.

There is potential for *interactions* between various environmental factors, notably between land and biodiversity, population and materials assets. Subject to the identified mitigation measures, significant interactions are not considered likely or such that would give rise to significant additional environmental impacts.

#### Probability, intensity and complexity of impacts

The proposal will result in the loss of a small area of habitat. Having regard to the limited scale of the proposal, the nature of the environmental impacts are not complex or intense.

### Expected onset, duration, frequency and reversibility of the impact

Having regard to the residential nature of the development, it is expected that the impacts will be on-going, long term and only reversible if the housing scheme is removed and the site is reinstated to its pre-development state.

### Transboundary nature of impact

There will be no transboundary impacts associated with the proposed development.

### Cumulative

The site is zoned for residential purposes in the development plan. The adopted plan has been subject to Strategic Environmental Assessment which concludes that the adopted development scenario is the optimal solution having regard to environmental and planning effects. I am not aware of any existing or permitted projects which would act in combination with the proposed development to give rise to cumulative effects.

## **8.6. Recommendation**

Having regard to the above assessment, I consider that the proposed development of 67 no. residential units and all associated site development works would not be likely to have significant effects on the environment. I therefore recommend that Cork City Council be advised that the preparation and submission of an environmental impact assessment report is not required in respect of the proposed development.

## **9.0 Reasons and Considerations**

Having regard to the following:

- (a) The criteria set out in Schedule 7 of the Planning and Development Regulations 2001, as amended
- (b) The nature and scale of the proposed development which is significantly under the threshold in respect of Class 10(b)(i) (Infrastructure – Dwelling Units) and Class 10b(iv) (Infrastructure -Urban Development) of the Planning and Development Regulations 2001(as amended).
- (c) The location of the site on lands that are zoned for residential use under the provisions of the Cork City Development Plan and the results of the strategic

environmental assessment of this Plan undertaken in accordance with the SEA Directive (2001/42/EC),

- (d) The limited nature and scale of the development,
- (e) The location of the site in a built-up area served by public infrastructure and the existing pattern of development in the vicinity,
- (f) The submission of the planning authority

It is considered that the proposed development would not be likely to have significant effects on the environment and, accordingly, that the preparation and submission of an environmental impact assessment report is, not, therefore, required.

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Breda Gannon  
Senior Planning Inspector

16th September 2020