



An  
Bord  
Pleanála

## Inspector's Report ABP-307872-20

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<b>Development</b>	Demolition of residential units and construction of 15 townhouses
<b>Location</b>	Ring Port Business Park, Loughbeg, Ringaskiddy, County Cork
<b>Planning Authority</b>	Cork County Council
<b>Planning Authority Reg. Ref.</b>	20/4747
<b>Applicant(s)</b>	Fastnet Recycling Limited
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Refuse
<b>Type of Appeal</b>	First Party
<b>Appellant(s)</b>	Fastnet Recycling Limited
<b>Date of Site Inspection</b>	10 <sup>th</sup> November, 2020
<b>Inspector</b>	Kevin Moore

## **1.0 Site Location and Description**

- 1.1. The site of the proposed development is located within the town centre area of Ringaskiddy in County Cork, south of the main street. It contains two blocks of two-storey residential units, surface car parking between the two blocks, and open space. The site slopes from east to west. Access to the site is via an entrance which adjoins an access road serving industrial development to the south. Development in the vicinity includes terraced and semi-detached housing within St. Joseph's Terrace to the north, agricultural lands to the west, industrial units to the south, and a public road to the east

## **2.0 Proposed Development**

- 2.1. The proposed development would comprise the demolition of demountable residential accommodation units that are ancillary accommodation associated with light industrial units permitted under P.A. Refs. 03/6582 and 12/5462 and the construction of 15 townhouses. The units to be demolished are in 2 no. two-storey blocks which each contain 8 no. three-bedroom apartment units. The townhouses would be developed in three two-storey blocks – a block containing 5 no. two bedroom units, a block containing 6 no. three bedroom units, and a block containing 3 no. three bedroom units and a four bedroom unit. Access to the development would be via the existing entrance adjoining the access road serving industrial development to the south. The proposal would include parking, landscaping and a play area, drainage and boundary treatment.
- 2.2. Details submitted with the application included a Planning Statement, an Assessment of Costs for Part V, a Civil Engineering Report, and an Architectural Design Statement.
- 2.3. Unsolicited further information was submitted to the planning authority in response to the submission from Transport Infrastructure Ireland.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

On 14<sup>th</sup> July 2020, Cork County Council decided to refuse permission for the proposed development for one reason relating to the proposal being in close proximity to the route for the M28 road scheme and being premature pending the delivery of that scheme.

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

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

The Planner noted the site's planning history, development plan provisions, and reports received. It was noted that the majority of the site is on land that forms part of the existing built footprint of Ringaskiddy village and that there are no objections in land use terms to residential development. The density of development proposed was queried and it was considered that an excessive quantum of development was being sought. It was submitted that insufficient parking was being provided and that meeting the requirements of the Area Engineer and Estates Engineer would likely give rise to a reduced scale / density of development. The layout and location of public open space were questioned and it was submitted that the design of some of the units could be revisited. Further sections were considered necessary having regard to the drop in levels between the site and dwellings to the north. It was considered that matters regarding the proximity of future occupiers of the scheme to the M28 do not appear to have been addressed in the application and that it is likely there would be issues to address regarding residential amenity, noise, etc., as well as clarity on the relationship of dwellings, including levels, to the M28. It was concluded that, given the reports from the National Roads Design Office and Transport Infrastructure Ireland, permission should be refused. A recommendation to refuse permission for one reason was made.

The Senior Executive Planner and Senior Planner concurred with the Planner's recommendation.

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

The Lighting Engineer requested further information on proposed public lighting.

The Housing Officer was satisfied that the proposed unit for social housing is suitable.

The Estates Report sought further information relating to vehicular movement within the site, footpath widths, and parking space dimensions.

The Area Engineer requested that the design be revisited to provide a minimum of two parking spaces per residence, a 5.5m roadway and proof that service vehicles can access and manoeuvre within the development.

The National Roads Design Office considered the proposal to be premature because it may prejudice plans for the delivery of the M28 roads project given its close proximity to the CPO line. It was noted that the motorway scheme is currently being challenged in the High Court.

The Environment Section requested a construction and demolition waste management plan and a surface water runoff management plan.

### **3.3. Prescribed Bodies**

Inland Fisheries Ireland had no objection to the proposal provided Irish water signifies there is sufficient capacity in existence so that the proposal does not overload existing treatment facilities.

Transport Infrastructure Ireland noted the site is in close proximity to an approved route of a national road scheme, that it is adjacent to the CPO line of the M28 Cork to Ringaskiddy scheme, and submitted that the proposed development would prejudice plans for the delivery of this scheme. The proposal was considered to be at variance with official policy outlined in Spatial Planning and National Roads Guidelines for Planning Authorities (2012).

Irish Water sought a Pre-Construction Enquiry in order to determine the feasibility of connection to the public water / wastewater infrastructure.

## 4.0 Planning History

### P.A. Ref. 03/6582

Permission was granted for relocation of offices permitted under Reg. No. S/01/0907 and erection of two two-storey blocks of demountable residential accommodation each containing 8 three bedroom apartment units. Condition 3 of the permission limited the use of the accommodation to eight years from the date of grant of permission.

### P.A. Ref. 12/5462

Permission was granted for the continuation of use of the demountable residential accommodation units. Condition 3 of the permission limited the use of the accommodation to three years from the date of grant of permission.

## 5.0 Policy Context

### 5.1. **Ballincollig Carrigaline Municipal District Local Area Plan 2017**

#### Ringaskiddy

The site is located within the town centre area. There is a Specific Development Objective for the town centre applicable to a land area of 18 hectares including the site, namely:

#### *Objective RY-T-02*

This area demotes the existing built footprint of Ringaskiddy and any proposals for development within this core area should comply with the overall uses acceptable in town centre areas. Any future development should reflect the scale and character of the surrounding existing built up residential area.

### 5.2. **Appropriate Assessment**

Having regard to the nature, scale, and location of the proposed development, the nature of the receiving environment, and proximity to the nearest European sites (Cork Harbour SPA), it is concluded that no Appropriate Assessment issues arise as

the proposed development would not be likely to have a significant effect individually or in combination with other plans or projects on a European site.

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.

### **5.3. 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 site is on zoned lands with a presumption in favour of development. It is outside the CPO zone for the M28. Deciding that lands outside of the CPO zone are not developable because of their proximity will set a precedent that has far reaching legal and development consequences. The scheme is viable regardless of whether the M28 is developed or not as it is designed that is standalone but also takes account of the CPO zone and the M28. The outcome of the court case against the M28 is not relevant. The access to the site is included in the proposals for the M28 and if the road is developed the access to the site is unaffected. Access to the site was included in all drawings associated with the M28 scheme. TII assured the appellants that the future development of the site would not be compromised by the development of the M28.
- Regarding the other matters raised in reports to the planning authority, issues raised can be rectified through minor adjustments to the scheme or through

imposing a condition on a grant of permission. A revised copy of drawings are submitted to address specific issues raised, including increased internal road width, further parking, revised open space, amendment of unit 12, an additional section, an autotrack analysis, screening proposals, and a construction waste and demolition plan.

- With regard to the M28, this brownfield site was included in the considerations for screening and noise and residential amenity and access to this site is part of the scheme. If TII/NRDO are seeking the site to be sterilised then it is questioned why the site was not included in the CPO in the first instance. The development can be delivered for both the “with” and the “without” M28 scheme scenarios.

Appendices submitted with the appeal include an Engineering Report, Extracts from the Inspector’s Report on the M28 scheme, a letter to NRDO, an autotrack analysis, and revised drawings.

## **6.2. Planning Authority Response**

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

## **7.0 Assessment**

- 7.1. The site of the proposed development is located within town centre zoned lands within Ringaskiddy. There is residential development located within the site. This is a fully serviced site and the proposal effectively seeks replacement of the existing apartment units with townhouses. A small number of issues arose in the reporting to the planning authority which primarily related to layout and meeting design standards. I note that the appellant has submitted revised drawings. The required changes can reasonably be seen to be minor in nature and the appellant has adequately responded. In accordance with the revised details submitted, I am satisfied that the principal concerns of the planning authority relating to the functioning of residential units on this site have been adequately addressed. This development proposal can be satisfactorily accommodated on this site without adverse impacts on neighbouring properties and on the established public road.

- 7.2. The sole reason for refusal of permission by the planning authority relates to the close proximity of the site to the route of the proposed M28 motorway scheme and the consideration that it could prejudice the delivery of this road scheme. It is my submission to the Board that this is an unsustainable position to hold. This site constitutes serviced town centre land on which there is existing residential development. This site did not, and does not, form part of the lands associated with the Compulsory Purchase Order for the proposed motorway scheme. It falls outside of the motorway scheme. Stymying development because it is in close proximity to a proposed road scheme and because it is perceived that it could prejudice the delivery of the scheme cannot be warranted. While there are provisions for access into this site under the motorway scheme, this proposed development is not dependent on the motorway scheme. It can be developed whether the motorway scheme proceeds or not and the applicant has made provisions accordingly. The implications arising from the planning authority's decision must be clearly understood. There is a lot of land in close proximity to the proposed M28 motorway scheme. The precedent set by a decision which prohibits development on developed lands in a town centre location, on zoned lands that are serviceable, because it is in close proximity would be a significant concern for the future of development in close proximity to the M28 CPO line. Prohibiting development on this basis is not sustainable.
- 7.3. I have already alluded to the proposed development being developable whether the M28 scheme proceeds or not. The M28 motorway scheme has made specific provisions in the immediate vicinity of this site that go beyond the revised access. These include noise barriers, landscaping and public lighting provisions. The Board will note that all of the proposed provisions associated with the development of the M28 scheme fall outside of the site for the proposed development. They do not encroach on the lands proposed for development and they specifically make provisions to safeguard the developability of this site in order to protect the future occupation of this site.
- 7.4. Having regard to the above, I cannot reasonably determine that the planning authority's decision is tenable.

## 8.0 Recommendation

- 8.1. I recommend that permission is granted in accordance with the following reasons, considerations and conditions.

## 9.0 Reasons and Considerations

Having regard to the established residential development on the site, to the zoning provision for this site, to the established residential development in the immediate vicinity, to the density, design, character and layout of the proposed development, and to the separation and independence of the development site from the route corridor of the M28 motorway scheme, it is considered that the proposed development, subject to compliance with the conditions set out below, would not seriously injure the residential amenities of the area or the amenities of adjoining properties, would provide for adequate servicing of the proposed housing, would not undermine the future development of the proposed M28 motorway scheme, and would otherwise be in accordance with the provisions of the current Ballincollig Carrigaline Municipal District Local Area Plan. 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 to An Bord Pleanála on the 10th day of August, 2020, 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. Details of the materials, colours and textures of all the external finishes to the proposed houses shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development

**Reason:** In the interest of visual amenity

3. The site shall be landscaped in accordance with a comprehensive scheme of landscaping, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interest of residential and visual amenity.

4. Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

**Reason:** In the interest of public health.

5. The applicant or developer shall enter into water and wastewater connection agreements with Irish Water, prior to commencement of development.

**Reason:** In the interest of public health.

6. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including noise and vibration management measures and off-site disposal of construction/demolition waste.

**Reason:** In the interests of public safety and residential amenity.

7. Site development and building works shall be carried out only between the hours of 0700 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. Public lighting shall be provided in accordance with a scheme, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interests of amenity and public safety.

9. Prior to commencement of development, the applicant or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the provision of housing in accordance with the requirements of section 94(4) and section 96(2) and (3) (Part V) of the Planning and Development Act 2000, as amended, unless an exemption certificate shall have been applied for and been granted under section 97 of the Act, as amended. Where such an agreement is not reached within eight weeks from the date of this order, the matter in dispute (other than a matter to which section 96(7) applies) may be referred by the planning authority or any other prospective party to the agreement to An Bord Pleanála for determination.

**Reason:** To comply with the requirements of Part V of the Planning and Development Act 2000, as amended, and of the housing strategy in the current Development Plan for the area.

10. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other

security to secure the provision and satisfactory completion and maintenance until taken in charge by the local authority of roads, footpaths, watermains, drains, public open space, landscaping and other services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion or maintenance of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

**Reason:** To ensure the satisfactory completion and maintenance of the development until taken in charge.

11. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

**Reason:** It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

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Kevin Moore  
Senior Planning Inspector

18<sup>th</sup> November 2020