



An  
Bord  
Pleanála

## Inspector's Report ABP 308025-20

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<b>Development</b>	Demolition of former school building and removal of roadside boundary wall and construction of 4 storey apartment building containing 23 units.
<b>Location</b>	Inniscarra Road, Coolroe, Ballincollig.
<b>Planning Authority</b>	Cork City Council
<b>Planning Authority Reg. Ref.</b>	20/39319
<b>Applicant</b>	Tuath Housing Association
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Refuse
<b>Type of Appeal</b>	1 <sup>st</sup> Party v. Refusal
<b>Appellant</b>	Tuath Housing Association
<b>Observer(s)</b>	<ol style="list-style-type: none"><li>1. Denis and Tara Kelleher</li><li>2. Jeremiah and Kathleen Kearney</li><li>3. Michael and Ann Mullane</li><li>4. Donal and Maria Hanley</li><li>5. Sean O'Riordan</li></ol>

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19. Cllr. Garret Kelleher
20. Elliot and Orla Defina
21. Mary and Brendan O'Sullivan
22. Sean and Derbhile Buckley
23. Aidan Mullane

**Date of Site Inspection**

28/10/20

**Inspector**

Pauline Fitzpatrick

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## 1.0 Site Location and Description

**Note:** This constitutes the 2<sup>rd</sup> appeal for demolition of a school building and construction of an apartment building. History file reference ABP 304573-10 refers. A 3<sup>rd</sup> appeal dating back to 2017 sought to change the use and extend the existing school building to provide for 19 apartments. File reference PL04.247348 refers.

- 1.1. The site is as described on the previous appeal and is as follows:
- 1.2. The site is located in the north western suburbs of Ballincollig, c. 1.3 km from the town centre. This site lies on the southern side of the Inniscarra Road (L2211) and backs onto the Westcourt housing estate. This road is accessed 0.6 km to the east/south east from the R608, the main east/west route through Ballincollig. Further to the north west, it provides access to Ballincollig Regional Park, after which it crosses the River Lee, at Inniscarra Bridge.
- 1.3. The site, itself, is of regular shape and has a stated area of 0.235 hectares. The site has a frontage of 64m onto Inniscarra Road. It is subject to significant gradients rising from the north eastern corner towards the south and west.
- 1.4. The site is presently vacant. It was last used as a school, Gaelscoil Ui Riordain, and accommodates a row of attached school buildings, which are two storeys in height. They present as single storey to a raised playground towards the south-western corner. Vehicular access is via a gated entrance in the north eastern corner. This access is from Inniscarra Road, via an adjoining set down area in front of a row of dwelling houses to the east of the site. A public footpath runs on a north/south axis through the eastern extremity of the site. This footpath links Inniscarra Road to an area of public open space within the Westcourt housing estate. A turning head to a cul-de-sac in the Westcourt housing estate adjoins the south western corner of the site.
- 1.5. The boundaries of the site are presently secured by means of retaining walls and palisade fencing.

## 2.0 Proposed Development

The proposal entails:

- Demolition of existing school buildings and removal of front boundary wall.
- 4 storey apartment building comprising of 23 units in the following format:
  - 7 no. 1 bedroom (49.2 sq.m. – 57.1 sq.m.)
  - 10 no. 2 bedroom (72.2 sq.m. – 86.5 sq.m.)
  - 6 no. 3 bedroom (104.6 sq.m.)
  - Undercroft parking area with 24 no. spaces and 57 bicycle spaces.
  - Building admin office and maintenance storage with residents' laundry and storage areas, refuse storage etc. to be provided at ground and 1<sup>st</sup> floor levels.
- Vehicular access via an upgraded access off Inniscarra Road.
- Diversion of combined sewer located to the south of the site and installation of foul sewerage pumping station below ground to pump to the public sewer to the south.
- New raised parallel cycle/pedestrian crossing of the Inniscarra Road from the north-eastern corner of the site.

The application is accompanied by:

- Planning and Design Statement
- Landscape Design Rationale
- Computer Generated Images
- Construction Management Plan
- Energy & TGD Part L Report
- Daylight Reception Analysis Report (x2)
- Sunlight/Shadow Analysis Report
- Engineering submission

- Stage 1 & 2 Road Safety Audit

### 3.0 Planning Authority Decision

#### 3.1. Decision

Refuse permission for the above described development for two reasons which can be summarised as follows:

1. Having regard to the number of apartments proposed, poor quality of communal open space and access to same, poor quality of private open space for the 3 bedroom units, the height, scale, massing and overbearing impact of the building in its immediate context, potential overshadowing of adjoining properties and the proposed amenity space, the proposal represents overdevelopment of a restricted site and would seriously injure the residential amenities of existing and future residents.
2. Having regard to the sub-optimum local pedestrian network the proposal, by reason of its size and scale, would result in unsafe pedestrian passage and consequent traffic hazard on Inniscarra Road.

#### 3.2. Planning Authority Reports

##### 3.2.1. Planning Reports

The **Senior Executive Planner's** report dated **26/07/20** notes:

- The principle of redevelopment of the site for residential has been established.
- The site is a small, brownfield, infill site which cannot easily determine its own density without impacting on surrounding development.
- The size and mix of units comply with the guidelines on Design Standards for New Apartments.
- There has been little active engagement in terms of redesign of the scheme since the previous refusal apart from introducing a greater separation distance

from the proposed rear retaining wall and an internal connection to the lower area of amenity space within the block.

- There are concerns regarding accessibility of the upper amenity area to residents and the quality of the two spaces in terms of access to daylight/sunlight. The scheme is considered deficient in terms of providing satisfactory open space for residents.
- While internal space standards and amenity spaces are met quantitatively the quality of such spaces remains a concern having regard to the limited access to daylight/sunlight for the larger 3 bed units and the impact of the retaining wall on the communal open space due to its height and proximity.
- The architectural expression is considered to be excessively out of character with the adjoining structures and fails to respect its immediate context. The front elevation would be overly long and monolithic with no variation in the roof profile.
- Not satisfied that the development would not have a negative impact on the amenities of property to the south-east including overshadowing of its front garden space and visual obstruction and overbearance.
- The recommendations of the internal reports (summarised below) noted.
- The issue of legal interest in the south-western corner and the provisions of Section 34(13) of the Planning and Development Act 2000, as amended, was noted previously by the Board.

A refusal of permission for 2 reasons recommended.

### 3.2.2. Other Technical Reports

**Transport and Mobility** in a report dated **07/07/20** recommends further information (FI) on construction traffic, parking facilities, mobility management plan and public lighting.

**Environmental Waste Management and Control** in a report dated **02/07/20** recommends FI seeking a waste management plan.

**Drainage Division** in a report dated **23/07/20** recommends FI.

**Contributions Report** dated **14/07/20** has no objection.

**Parks Division** in a report dated **15/07/20** has no objection subject to conditions.

**Area Engineer** in a report dated **17/07/20** notes:

- a discrepancy in relation to the legal ownership of the southwest corner of the site. Clarification required.
- A geotechnical report required to demonstrate that the construction of the apartment block and retaining walls will not impact on adjoining property.
- Existing footpath on northern side of road at the location where the proposed raised parallel road crossing is too narrow. Potential access through the Council's maintenance yard is not an option.
- Method statement for diversion of the combined sewer required.

**Urban Roads and Street Design** report dated **23/07/20** notes that the potential route through the Council's maintenance yard with an opening to be made in the existing wall has not been discussed. There are no plans in the short or medium term to provide a connection to the regional park from this point. Refusal is recommended on the grounds of sub optimum pedestrian infrastructure. The proposal is premature pending upgrade works to existing pedestrian and cycling infrastructure.

**Housing** in a report dated **24/07/20** has no objection. The proposal would be exempt from Part V.

### 3.3. **Prescribed Bodies**

**Transport Infrastructure Ireland** in a letter dated **07/07/20** has no observations.

**Irish Water** in a report dated **22/07/20** recommends FI on the diversion of the combined sewer and a construction management plan.

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

Objections to the proposed development received by the planning authority are on file for the Board's information. The issues raised are comparable to those set out in the observations received and summarised in section 6.3 below.



## 4.0 Planning History

**2019 ABP 304573-19 (19/4595)** – permission refused for demolition of school building and construction of a 4 storey apartment building containing 24 units, vehicular access to an undercroft car park and ancillary works.

The 2 reasons for refusal can be summarised as follows:

1. Due to the scale, design and layout including height of retaining walls and their proximity to the apartment building, the proposal would constitute overdevelopment of the site and would seriously injure the residential amenities of future residents. It would also seriously injure the amenities of property in the vicinity and the character of the area.
2. The proposal would be substandard in terms of carparking and would likely lead to overspill car parking in the surrounding area and would endanger public safety by reason of traffic hazard.

**2017 - 17/512** – permission refused for conversion of school to residential use and addition of a second floor to provide 14 no. apartments for two reasons relating to overdevelopment of the site and overlooking of adjoining properties.

**2017 - PL04.247348 (16/5753)** – permission refused for conversion of school to residential use and addition of a second floor to provide 19 no. apartments on the grounds that the proposal would constitute overdevelopment of the site and lack of satisfactory integration into the area due to the materials proposed.

## 5.0 Policy and Context

### 5.1. Development Plan

*Cork County Development Plan 2014 – 2020*

Ballincollig is identified as a metropolitan town and it is shown as lying within the County Metropolitan Cork Strategic Planning Area.

*Ballincollig-Carrigaline Municipal District Local Area Plan 2017*

The site is within the development boundary and within an existing built up area.

## 5.2. Environmental Impact Assessment

Having regard to the characteristics of the site and the nature and scale of the proposed development there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

## 5.3. Natural Heritage Designations

None in the vicinity.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

The submission by HW Planning on behalf of the 1<sup>st</sup> Party against the planning authority's notification of decision to refuse permission refers. It is accompanied by revised plans, drawings and computer generated images (CGI). The appeal can be summarised as follows:

#### 6.1.1. Reason for Refusal No.1 – Overdevelopment

- The proposal is considered to be an appropriate design response to the Board's previous refusal. The revisions to address the refusal include:
  - reduction in the building footprint to increase the set back to the retaining walls.
  - redesign of apartments to improve residential amenity.
  - redesign of public amenity spaces.
  - daylight/sunlight analysis completed for all units and amenity space
  - revision of site access and egress to ensure safe refuse collection arrangements.
- It is not accepted that the proposal would have an overbearing impact on the immediate context. The planning authority's view contradicts national

guidelines which advocates heights of 3 and 4 stores in such suburban locations.

- Given the level difference between the site and adjacent development and as demonstrated by the plans that accompany the application the development can be successfully integrated from an urban design perspective and will not have an overbearing impact on adjoining properties.
- The building is comparable in height to the school building.
- Should the Board concur with the planning authority's view that the building lacks architectural expression and requires greater visual variation, this could be addressed by way of condition. Revised plans accompany the appeal reducing the width of the building at 3<sup>rd</sup> floor level resulting in the omission of 2 no. apartments. The proposed revision will result in an alteration in the housing mix whereby the 6 no. 3 bedroom units on the upper floors are replaced by 2 bedroom units.
- The application was accompanied by a Sunlight/Shadow Analysis Report. The BRE report indicates that sunlight assessment should be done for 21<sup>st</sup> March.
- The analysis assessed the adjacent properties including the front gardens of 69 Westcourt and the other front gardens to the south-east. These gardens are north facing and offer limited amenity value. It notes that these front garden spaces currently receive less daily sunlight than would be recommended under the BRE Guidelines. Any loss is not greater than 20%. The report concludes that the impact is within the minimum recommendations of the BRE report.
- Whilst the 3 bedroom apartments are north facing they are located on the upper floors and will enjoy uninterrupted views over Ballincollig Regional Park and the wider River Lee Valley.
- The alterations to the previous proposal refused permission provide for a greater separation distance between the apartment building and the retaining walls resulting in larger, more coherent and usable public amenity spaces.

- The sensitivity of the boundary treatment is acknowledged and will be appropriately landscaped. Small landscape public amenity areas will be provided to the east and west of the scheme. The primary amenity space will be to the south.
- The travel distances involved between the open spaces is not considered to be a significant issue. Should the Board consider open space distribution to be an issue the requirement to provide roof top amenity space could be required by way of condition.
- The open spaces will meet BRE requirements.

#### 6.1.2. Reason for Refusal No. 2 – Connectivity

- The proposal will improve pedestrian connectivity in the area and would not result in unsafe pedestrian passage and consequent traffic hazard on Inniscarra Road.
- The resolution of cycling and improved pedestrian access to the main entrance of the regional park is the responsibility of the local authority.
- The suggestion that further development in Ballincollig is premature pending the upgrade of the access to the regional park sets an unsafe and unhelpful precedent.
- The application was accompanied by a Road Safety Audit which did not highlight any significant road safety concerns for road users.
- Provision is made for connectivity with a future, two way segregated cycle track. The area is outside the site but on lands adjacent and in the control of the City Council. In accordance with Section 34(4)(a) of the Planning and Development Act 2000, as amended, a condition can be imposed requiring the applicant to undertake these works.
- The suggestion for connectivity to the regional park via the Council's maintenance yard in the medium to long term would negate the need for a cycle route along the narrow western stretch of the road.

## 6.2. Planning Authority Response

No further comment.

## 6.3. Observations

Observations have been received from

1. Denis and Tara Kelleher
2. Jeremiah and Kathleen Kearney
3. Michael and Ann Mullane
4. Donal and Maria Hanley
5. Sean O’Riordan
6. Marie McDermott
7. J. and B. Hanrahan
8. John and Ann O’Brien
9. Joanna Murphy
10. Residents of Westcourt and Westcourt Heights
11. Gerard and Chris O’Leary
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20. Elliot and Orla Defina
21. Mary and Brendan O’Sullivan

22. Sean and Derbhile Buckley

23. Aidan Mullane

The submissions can be summarised as follows:

### 6.3.1. **Site Location and Suitability of Design**

- No real meaningful changes have been made relative to the proposal previously refused. The proposal constitutes overdevelopment of a restricted, steeply sloping site.
- The site is a peripheral/less accessible urban location and not an intermediate urban location. The details given by the applicant re. distances, services, bus routes etc. are inaccurate. The Inspector's assessment on the previous appeal was based on incorrect information. The site is not suitable for the density proposed and is not in accordance with national policy guidance.
- Ballincollig is ahead of other areas of Cork City in terms of delivering residential developments. There is no additional requirement for apartments in the town.
- The design is not in keeping with the existing houses in the vicinity and is inappropriate. It would have an adverse impact on the visual amenity of the regional park and scenic routes on the other side of the valley. An urban design statement should be required.
- The alterations proposed in the appeal would make little material difference in terms of bulk, massing and visual impact.
- The suggested roof top amenity with necessary screening either returns the parapet height to what it was before the apartments were removed or becomes at least  $\frac{3}{4}$  of a storey taller than illustrated.
- Coolroe Court c .350 metres from the site is reflective of a development which does not negatively impact on the amenities of the area.

### 6.3.2. **Impact on Amenities of Existing Property and Future Occupants**

- It will result in overlooking and loss of light to adjoining properties.

- The sunlight/shadow analysis is inaccurate and does not indicate adequately the shadow which will fall on the road.
- The scheme will have an adverse impact on the existing open space within the Westcourt housing estate to the south.
- Prospective occupants of units along the northern elevation will not be afforded any privacy or amenity.
- The proposed open space area is inadequate. It is not designed to include all residents. It will result in an intensification of use of the existing open space within Westcourt.
- Requirements in relation to unit size, bed space communal spaces etc. have not been updated since the Covid 19 pandemic.

### 6.3.3. Access and Traffic

- The site access would give rise to a traffic hazard. Sight lines to the north east are restricted.
- The road and footpath in the vicinity are narrow with significant levels of vehicular and pedestrian movements. The raised crossing will do nothing to alleviate the problem of the footpath width. Setting back the building 2 metres will allow for the widening of the existing footpath to at least 1.8 metres and would allow for the Council to widen the road to the west in the future. It can only widen the road along the south as the wall to the north is of historic significance.
- The location of the raised crossing area places the pedestrian in conflict with cars emerging from the site. The Road Safety Audit did not take this into account. There is no mention of traffic calming measures on approach to the crossing area.
- Car parking is inadequate and will result in overspill to adjoining areas. The Regional Park already results in parking overspill.
- Given the car park entrance is at road level onto the east end of the site, the west end of the ground floor (car park) would have to be considerably above

ground level. This is not shown on the drawings or CGIs and would raise the structure even further above existing properties.

- The parking space for waste collection vehicles near the north-west corner cannot achieve 50 metre sightlines with no options for turning.
- The traffic calming measures, namely the extended curb jutting out into the western roadway and the raised table top crossing, will create a considerable impediment to agricultural and commercial vehicles and is contrary to DMURS. There will be increased noise from HGVs and farm vehicles going over the raised crossing.
- The access and suggested proposals for a cycleway are not adequate to allow for assessment.
- The suggestion of an opening in the wall opposite is impractical. Were it to be realised it would provide for increased circulation and non-residential parking in the adjoining estate.
- Emergency access arrangements to the car park are queried.

#### 6.3.4. Other Issues

- Deep excavation would be required. There are concerns of subsidence. Potential requirements for dewatering and knock-on impacts on ground conditions and services. No geotechnical report accompanied the application.
- Water and sewerage services in the area are inadequate. Knock-on impacts on main water pipe that runs under the walkway to the east of the site.
- Concerns about surface water disposal to River Lee which is a salmonid river. There are environmental issues with the protection of the NHA.
- Runoff from the site and possible contaminants has not been addressed. The aquifer is vulnerable. Adequacy of attenuation storage queried. Maintenance details have not been provided.
- Services in Ballincollig are under pressure.
- Issue of ownership of lands in the south-western corner of the site has not been addressed.



- Noise, dust, traffic, disruption and infestation during the construction phase.
- Proposed design amendments by way of the appeal submission is an inappropriate approach.

#### 6.3.5. **Accuracy of and Access to Documentation**

- The CGIs provided are inaccurate and include a wide road and footpath.
- The documentation accompanying the application misrepresents the boundaries to the property to the west with the sunlight/shadow analysis failing to identify the garden and the windows on the east side of the dwelling.
- Access to documentation during both the application and appeal stages was problematic.

## 7.0 **Assessment**

7.1.1. I consider that the issues arising in the case are comparable to those identified in the Inspector's report on the previous appeal and can be assessed under the following headings:

- Overview
- Site Location and Density
- Building Design and Amenities of Adjoining Property and Prospective Occupants
- Access and Traffic
- Other Issues
- Appropriate Assessment

### 7.2. **Overview**

7.2.1. As noted at the outset this constitutes the 2<sup>nd</sup> appeal for demolition of the school building and construction of an apartment building. History file reference ABP 304573-19 refers. Permission was refused by the Board for two reasons relating to (a) overdevelopment of the site and consequent impact on amenities of existing properties and future occupants and (b) inadequate parking which would likely lead

to overspill car parking in the surrounding area and which would endanger public safety by reason of traffic hazard.

7.2.2. The substantive amendments proposed by the applicant in the current application to address the refusal are:

- Reduction in number of apartments from 24 to 23
- Reduction in the footprint of the building allowing for:
  - increase in the separation distance to the rear boundary from between 8 - 8.6 metres to between 12.8-13.4 metres
  - increase in the separation distance to the western boundary from between 0-8.08 metres to between 8.5 and 11.7 metres.
- Internal alterations in terms of apartment layout and aspect including:
  - 2 no. apartments on ground floor
  - Dual aspect 3 no. bedroom units
  - Floor to ceiling heights to meet or to be in excess of 2.7 metres with ground floor apartments to have 2.8 metres.
  - Western side of the building that faces the retaining wall at ground and 1<sup>st</sup> floor level to be reserved for building service areas.
  - Improved communal facilities including laundry area and storage area.
- Layout and configuration of the open space.
- Revised vehicular access arrangements
- Building redesign with parapet height of 13.95 metres
- Provision of 24 no. spaces and 57 bicycle spaces
- Refuse collection access via set-down area

### 7.3. Site Location and Density

7.3.1. Whilst the administrative boundaries of Cork City and County have altered with the site now within the jurisdiction of the City Council the policy context against which the previous appeal was assessed remains the same. Thus, as per the Cork County Development Plan Ballincollig is identified as a metropolitan town, which lies within

the County Metropolitan Cork Strategic Planning Area. Under the Ballincollig-Carrigaline Municipal District Local Area Plan 2017, the subject site is shown as lying within the development boundary and in an “existing built up area.” As this area is predominantly in residential use, there is no objection in principle to the site being redeveloped for such purposes.

7.3.2. A number of observers consider that the previous assessment was based on inaccurate information provided by the applicant and they contest the conclusions made in the previous Inspector’s report as to the classification of the site location relative to the provisions of the Sustainable Urban Housing - Design Standards for Apartments (SUHDSA) guidelines. It is contended that the site would more appropriately be deemed to be peripheral/less accessible location rather than an intermediate urban location due to the distances to shops, public transport and services. In this regard it is noted that one observation, whilst stating that the site is not within easy walking distance of such services, goes on to state that residents in the Westcourt Estate immediately adjoining ‘*walk to the shops, to the park, to the bus and enjoy their open spaces and amenities*’.

7.3.3. The said Guidelines state that intermediate urban locations are suitable for, amongst other things, higher density development that may wholly comprise apartments. The following three criterion are cited for these locations:

- Sites within or close to, i.e. within reasonable walking distance (i.e. up to 10 minutes or 800 – 1000m) of principal town or suburban centres or employment locations, that may include hospitals and third level institutions;
- Sites within walking distance (i.e. between 10 – 15 minutes or 1000 – 1500m) of high capacity urban public transport stops (such as DART, commuter rail or Luas) or within reasonable walking distance (i.e. between 5 – 10 minutes or up to 1000m) of high frequency (i.e. 10 minute peak hour frequency) urban bus services or where such services can be provided;
- Sites within easy walking distance (i.e. up to 5 minutes or 400 – 500m) of reasonably frequent (min. 15 minute peak hour frequency) urban bus services.

7.3.4. I submit that by reason of the language used, the distances detailed in the above criteria are not intended to be absolute thereby allowing for a certain level of latitude. The guidelines also clearly state that the range of locations is not exhaustive and will

require local assessment that further considers these and other relevant planning factors. In this context whilst I note that the figures as detailed in the Inspector's report do not correspond with those set out in the observations, I submit that the approximate distances, allowing for a margin of error, are compatible. On this basis I would concur with the Inspector in his assessment of the previous appeal that, on the basis of the first and third criteria, the site is sufficiently close to the town centre, an employment area, and the nearest bus stops to be classified as an intermediate urban location

7.3.5. In terms of density the SUHDSNA guidelines envisages the suitability of intermediate urban locations for higher density development that may wholly comprise apartments. The current proposal for 23 dwellings on a site of 0.235 hectares equates to a density of 92 units per hectare. Whilst high, there is no impediment in terms of maximum densities on such a site. Notwithstanding, the acceptability or otherwise of the proposal is predicated on other planning considerations being met including the acceptability of the design solution, impact on amenities of adjoining property, the securing of adequate amenities for prospective occupants and access and traffic. I shall address these matters in the sections below.

#### **7.4. Building Design and Amenities of Adjoining Property and Prospective Occupants**

7.4.1. The current proposal would replace two storey buildings on an elevated site with a four storey one on a lowered site and can be seen to accord with the principles set out in the Urban Development and Building Heights (UDBH) Guidelines which recommends that development of at least three to four storeys be supported on sites outside town centres where two storey development may be the norm.

7.4.2. Obviously, any development of the site will bring about a change in the streetscape and character of the immediate area and I accept that the site strictures are notable in terms of limited size and context. I submit that the challenge is to be sure that the design complements and does not detract from the area and provides for an appropriate form of development ensuring an acceptable level of residential amenity for prospective occupants, whilst protecting those of adjoining properties. I shall address these issues in the sections below.

- 7.4.3. As noted by the Inspector on the previous appeal existing levels on the site rise from 22.442 metres in the north eastern corner to 31.576 metres in the south-western corner. Under the proposal, the ground floor finished level would be 21m and so the development would entail not only the demolition and clearing of the existing school building on the site, but its significant excavation and lowering to facilitate the construction of the proposed apartment building. It is to have a height comparable to that previously proposed, albeit with a uniform parapet level. The building line to the road has been brought forward and is to have a setback of approx. 4 metres relative to 7 metres in the previous proposal.
- 7.4.4. Due to the topography of the area the dwellings bounding the site immediately to the west have a FFL of 30.602 and eaves level of 32.830. The dwellings to the east have a FFL of 24.098 and ridge height of 31.943. The proposed building is to have a parapet level of 34.95.
- 7.4.5. A Sunlight/Shadow Analysis Report was prepared for the garden spaces of the said adjoining properties. In same it is noted that a number of receptors receive less daily sunlight than would be recommended under the BRE guidelines with the proposed development marginally impacting the two directly to the east and west (A,G). The effects on the sunlight in both cases are within BRE guidance. In terms of daylight reception I consider that the locations assessed, although not exhaustive, are a reasonable representation. All the selected locations will be affected to some degree with regards to daylight reception however the calculated change in daylight reception are all within the BRE recommended maximum change factor of 0.8. As all analysed room/window locations have a calculated VSC of 27% or more it does not require further assessment.
- 7.4.6. The proposed development has been designed in a manner that seeks to avoid overlooking of neighbouring properties with the fenestration treatment having regard to the sensitivities of the properties both to the east and west. The apartments along the southern elevation will overlook the open space within the scheme itself and the existing open space within the Westcourt estate, the boundary of which is currently delineated by a palisade fence backed with trees. The provision of a mesh fence backed with planting within the site would provide for a more appropriate boundary treatment within this residential area.

- 7.4.7. The current scheme is to provide for 7 no. 1 bedroom, 10 no. 2 bedroom and 6 no. 3 bedroom units. It has an appropriate mix with the units exceeding the minimum floor areas detailed in the guidelines. In addition the recommended minimum floor to ceiling heights, storage and private open space provisions are attained with the number of dual aspect units satisfying the guidelines requirements. The issue of the minimum space and design requirements following Covid 19 has been raised by a number of observers. To date the said guidelines are the applicable document to which regard must be had.
- 7.4.8. I note that the Daylight Reception Analysis report for rooms within the development concludes that all calculated Average Daylight Factor are within the guidelines of the BRE design guide Site Layout and Planning for Daylight and Sunlight – A Guide to Good Practice and that the daylight reception in the habitable rooms to be satisfactory and in compliance. In addition the proposed open spaces areas meet the minimum requirements and would receive at least 2 hours of sunlight on at least 50% of the area on the 21<sup>st</sup> March.
- 7.4.9. The provision of communal resident facilities including laundry facilities is a welcome addition.
- 7.4.10. However, whilst the scheme meets the quantitative minimum requirements I consider that some qualitative issues remain:
- The 3 bedroom units at the upper levels, whilst stated to be dual aspect are, in effect, tantamount to single aspect with the north facing balconies, at 10.1 metres, just exceeding the minimum requirements. The increased separation to the retaining wall along the southern boundary has improved the aspect of the units which are to have a southerly aspect but a privacy strip will be required for the units that directly face onto the proposed open space areas.
  - The design solution in the current case is uniform in terms of parapet height and in view of its setback from the road and forward of the dwellings to the east is not, in my opinion, as successful as the previous iteration. I would concur with the Council Planner that the front elevation would be overly long and somewhat monolithic in appearance with no relief in terms of overall height. The fact that it is forward of the line of dwellings immediately to the east with a separation distance of not more than 10 metres, would heighten

this impact when viewed from the east. In addition and as noted by the observers on file the CGIs are somewhat generous in terms of its interpretation of the aspect to Inniscarra Road with the footpath on the opposite side of the road certainly materially wider than what currently prevails.

7.4.11. In response to the planning authority's notification of decision to refuse permission the applicant has submitted revised plans with its appeal to address some of the issues set out in the Area Planner's report and in the planning authority's reasons for refusal.

7.4.12. The alterations include:

- Rearrangement of ground floor units removing the balconies and provision of private amenity spaces to the side. No detail is provided as their treatment to the roadside but a 1.5 metre minimum privacy strip will be possible. Appropriate landscape design and boundary treatment would be required. I consider that this could be addressed by way of condition.
- Omission of 3 bed units and replacement with 2 bed units
- Reduction in building height at the eastern and western sides resulting in the omission of 2 no. 2 bedroom units.
- Increase in parking spaces to 25.

7.4.13. As amended, 21 no. units would be provided comprising of 7 no. 1 bed and 14 no. 2 bed units. Of the latter 2 bed units 10 no. are to be 3 person which equates to 48% of the unit mix. The SUHDSNA guidelines in noting the suitability of such type units recommends they should not account for than 10% of the total number of units in private residential developments. This is not the case in this instance. The development is by a housing association and Part V requirements will not be applicable. The appropriateness of having a high proportion of two bedroom 3 person units is reasonably understood in terms of the types of accommodation needs seeking to be addressed. I do not consider the number of such type units within this small scheme to be disproportionate in the context of its location which is characterised by family type 3 and 4 bedroom units. On this basis I consider that

the unit sizes and mix would be in accordance with the provisions of SPPR1 and SPPR 3 with no requirement to provide for 3 or more bedrooms.

- 7.4.14. The variation in the building height stepping down to the eastern and western boundaries assists in breaking down the bulk and massing of the building whilst providing for a more sympathetic gradation to the dwellings to either side. This reduction in height would also have knock-on impacts in terms of the sunlight and daylight analysis undertaken.
- 7.4.15. The constraints of the site in terms of topography and road frontage present difficulties in the landscaping and provision of open space. This is addressed through the provision of two landscaped areas between the building and the retaining wall along the southern boundary. The spaces will be overlooked by apartments. Whilst acknowledging the fact that access to sunlight will be restricted the minimum requirements as per BRE guidance will be met. The issues of connectivity between the two spaces via stairs also raises issues in terms of accessibility but I note that each space is accessible by residents via the apartment building. On balance and having regard to the identified site constraints, the arrangement is considered acceptable. The availability and proximity to active recreational lands/regional park to the north of the site provides additional amenity opportunities for future residents and I do not consider that material erosion of the amenity value of adjoining public open space land within the Westcourt Estate will arise. On this basis the applicant's proposal for a rooftop amenity space is not required. Indeed as noted by observers such a provision would require measures to address overlooking which could have knock-on impacts on the building design and height.
- 7.4.16. As noted by a number of observers the CGIs accompanying the application and the appeal are not entirely accurate. I submit that this does not necessarily negate their usefulness. Subject to the acknowledgement of their shortcomings they provide an ancillary tool to the drawings on file to assist in the assessment of the proposed development
- 7.4.17. On the basis of the foregoing I consider that the revised scheme as presented at appeal stage to be a more acceptable design solution and recommend that this be considered for a favourable decision by the Board.



## **7.5. Access and Traffic**

- 7.5.1. The pedestrian and vehicular environment is the same as that which prevailed during the assessment of the previous appeal by the Board. The Inniscarra Road is well trafficked and noted to be narrow in the vicinity of the site. Pedestrian facilities are constrained with the provision switching from the southern to the northern side of the road at the appeal site. The 50 kph speed limit applies.
- 7.5.2. As in the previous proposal an undercroft car park is proposed with the number of parking spaces increased from 21 to 25 (drawings accompanying the appeal). The proposed access arrangement and location of the raised pedestrian crossing are largely comparable to those detailed in the previous scheme and which were deemed to be acceptable. Adequate sight lines are available with the proposed crossing in line with the footpath from Westcourt. Contrary to the views of a number of observers I do not consider its position relative to the vehicular access to the scheme to be problematic. In addition a number of observers have raised concerns as to the raised pedestrian arrangement. I note that such crossings are provided in other urban and suburban locations where they are traversed by a myriad of motorised vehicles including HGVs and agricultural machinery with no evident concerns in terms of safety or noise.
- 7.5.3. In terms of the adequacy of the parking provision the SUHDSNA recommends that reduction in car parking provision on sites in intermediate urban locations be considered, especially in denser developments, such as the current proposal. As per County Development Plan standard, 1.25 spaces per apartments should be provided. Thus for the original proposal of 23 units a provision of 29 spaces would be required. The proposal as amended in the appeal submission, which provides for 21 apartments would require 26 spaces. A shortfall of 1 space will arise. As assessed above I consider that the revised scheme as presented at appeal stage to be a more acceptable design solution and recommend that this be considered for a favourable decision by the Board. On the basis of at least 1 space per unit, the provision is considered to be a reasonable. In addition adequate provision is made for cycle parking. I therefore consider that the concerns arising in the previous

appeal are addressed and do not consider that the proposal, of itself, will result in overspill into adjoining residential areas. The issue of overspill parking from the regional park into adjoining residential areas is not a matter for resolution in this appeal.

- 7.5.4. There is no question that the current pedestrian facilities along Inniscorra Road in the vicinity of the site are deficient with the footpath directly opposite not wide enough to facilitate 2 way movement without having to step onto the carriageway. The narrowness of the road and the pattern of the development constrains the potential for widening. The suggestion mooted regarding the development of a pedestrian/cyclist access to the Ballincollig Regional Park via an opening in the stone wall opposite the site is not acceptable to the local authority. Nevertheless it is outside the remit of the applicant to provide.
- 7.5.5. Notwithstanding, in view of the proposals to widen the footpath along the site frontage and the provision of the pedestrian crossing I do not consider that the deficiency in the pedestrian infrastructure for the wider area falls solely within the applicant's remit to resolve and is more appropriately a matter for the local authority. I therefore do not consider it to be reasonable grounds for refusal.
- 7.5.6. In order to adequately provide for minimum access to this site for refuse collection and maintenance purposes I consider the lay-by arrangement to be reasonable. Managing and controlling this space would be a matter for the management company that would ultimately manage the everyday functioning of the communal space, within the site.
- 7.5.7. In view of the foregoing I do not concur with the planning authority's 2<sup>nd</sup> reason for refusal.

## **7.6. Other Issues**

- 7.6.1. The issue of stability and potential for subsidence is raised by a number of observers. As noted by the Inspector on the previous appeal the specific issue of stability is one that the developer would be responsible for, ensuring good engineering practice and the incorporation of all necessary safeguards.
- 7.6.2. I acknowledge the concerns of neighbouring residents relating to the construction of the proposed development in close proximity to them and the potential nuisance that

arises from the construction phase of this development. There would be some degree of nuisance, disturbance and inconvenience caused by traffic generation, deliveries of materials, site clearance, excavation, groundworks, providing foundations, and other construction works. However, this must be balanced against the short-term nature of the construction phase and the management provisions that are required to be made at this phase of the development. The development and adoption of a Construction Management Plan, having been agreed with the planning authority, is a reasonable measure to employ and which can be required by way of planning condition. Such a plan would permit an oversight of these works and place an obligation on the developer to seek to minimise and mitigate adverse impacts on neighbouring properties.

- 7.6.3. The submitted application is accompanied by a letter from the owner of the site edged red on the submitted plans, in which consent is given to the applicant to make the current application. Observers contend that a portion of the said site in its south western corner is in separate ownership. They also draw attention to the route of the diverted public sewer, which they contend would lie outside this site. These matters were addressed by the Inspector in his assessment of the previous appeal. I consider that sufficient detail has been provided as to allow for the applicant to make the application. The provisions of Section 34(13) of the Planning and Development Act, 2000 as amended are applicable. The submitted plans show the diverted public sewer within the red edge of the site. I also note that the path along the east side of the site will not be affected by the proposal
- 7.6.4. In terms of connection to services the consent of Irish Water will be required with respect to the diversion of the public sewer and connection to services. There is no evidence on file from Irish Water or the Council Engineers to support the assertions as to the lack of capacity in either water supply or sewerage.
- 7.6.5. The application is by a voluntary housing association for social housing the provisions of the Cork City General Development Contribution Scheme 2020 do not apply (Table 5).
- 7.6.6. The concerns raised by a number of observers about the access to documentation during both the application and this appeal stage are noted. The matter of the availability during the application stage is not a matter for comment in this

assessment. The number and content of the observations received in response to the 1<sup>st</sup> party appeal would suggest that 3<sup>rd</sup> party rights have not been adversely impacted upon.

## 7.7. **Appropriate Assessment**

### ***Site Location and Description***

- 7.7.1. The site location and description of the proposed development are as set out in sections 1 and 2 above with the alterations proposed by way of documentation submitted with this appeal summarised in section 7.4.10 above.

### ***Designated Site and Qualifying Interests***

- 7.7.2. The nearest sites are downstream of the nearby River Lee in Cork Harbour

- 7.7.3. *Cork Harbour SPA c. (site code 004030) 13km to the east*

The qualifying interests are Little Grebe, Great Crested Grebe, Cormorant, Grey Heron, Shelduck, Wigeon, Teal, Pintail, Shoveler, Red-breasted Merganser, Oystercatcher, Golden Plover, Grey Plover, Lapwing, Dunlin, Black-tailed Godwit, Bar-tailed Godwit, Curlew, Redshank, Black-headed Gull, Common Gull, Lesser Black-backed Gull, Common Tern, Wetland and Waterbirds

- 7.7.4. *Great Island Channel (site code 001058) c. 19km to the east.*

The qualifying interests are Mudflats and sandflats not covered by seawater at low tide and Atlantic salt meadows

Detailed conservation objectives have been prepared for both sites, the overall aims being to maintain or restore the favourable conservation status of the qualifying interests.

### ***Assessment***

- 7.7.5. The site is neither in nor near to any Natura 2000 site. No direct impacts will arise.

- 7.7.6. A potential source/ pathway/receptor route between this site and the designated sites exists, by means of a manmade water course behind the boundary wall to Ballincollig Regional Park on the opposite side of Inniscarra Road from the site. This water course flows into the River Lee.

- 7.7.7. Best practice measures during the construction phase and which would be applicable to any development would preclude the potential for pollutants from the site reaching this water course. During the operational phase, pollutants from the site would be contained within Irish Water's infrastructure.
- 7.7.8. Having regard to the separation distance from Cork Harbour SPA and Great Island Channel SAC, disturbance of species during construction or operation phases are not considered likely to arise. The site does not provide any suitable ex-situ foraging habitats for waterbirds identified as species of conservation interest for the European sites. There is no direct connection between the application site and these European sites.
- 7.7.9. With regard to in-combination or cumulative effects on these downstream European sites the project should be viewed in the context of development within the wider Cork City area. The scale of development proposed on these serviced lands is not significant. I consider that any potential for in-combination effects on water quality in Cork Harbour can be excluded.

#### ***Screening Statement and Conclusions***

- 7.7.10. The proposed development was considered in light of the requirements of Section 177U of the Planning and Development Act 2000 as amended. Having carried out screening for appropriate assessment, it has been concluded that the proposed development individually or in combination with other plans or projects would not be likely to have a significant effects on European Site Nos. 004030 and 001058 or any other European site, in view of the sites' conservation objectives and appropriate assessment (and submission of a NIS) is not therefore required.
- 7.7.11. The determination is based on the distance of the proposed development from European sites, the intervening development, and the site being fully serviced.
- 7.7.12. In making this screening determination no account has been taken of any measures intended to avoid or reduce the potentially harmful effects of the project on the European Sites.

## 8.0 Recommendation

Subject to the amendments submitted with the appeal and on the basis of the foregoing I recommend that permission be granted for the following reasons and considerations subject to conditions.

## 9.0 Reasons and Considerations

Having regard to the following:

- the Urban Development and Building Heights Guidelines for Planning Authorities issued by the Department of Housing, Planning and Local Government in December, 2018,
- the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities issued by the Department of Housing, Planning and Local Government in March, 2018, • the Cork City Development Plan 2015-2021, and
- the location of the site within the existing built up area of Ballincollig as identified in the Ballincollig-Carrigaline Municipal District Local Area Plan 2017 (LAP)
- the brownfield nature of the site and the pattern of existing development in the area,

it is considered that, subject to compliance with the conditions set out below, the proposed development would be in accordance with the provisions of the national planning guidelines, the Cork County Development Plan and the Ballincollig-Carrigaline Municipal District Local Area Plan 2017, would be acceptable in terms of height, scale, mass and density, would not seriously injure the visual amenities of the area and would not seriously injure the residential amenities of adjoining properties, would represent an appropriate design response to the site's context and would be acceptable in terms of pedestrian, cyclist and traffic safety. 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 received by An Bord Pleanála on the 24<sup>th</sup> 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 development and the boundary and surface treatments, including boundary treatments to the private garden areas serving the ground floor apartments in the northern elevation as delineated on the plans received by An Bord Pleanála on the 24<sup>th</sup> day of August 2020, 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. No additional development shall take place above roof parapet level, including lift motor enclosures, air handling equipment, storage tanks, ducts or other external plant, telecommunication aerials, antennas or equipment, unless authorised by a further grant of planning permission.

**Reason:** To protect the residential amenities of property in the vicinity and the visual amenities of the area.

4. A plan containing details for the management of waste (and, in particular, recyclable materials) within the development, including the provision of

facilities for the storage, separation and collection of the waste and, in particular, recyclable materials and for the ongoing operation of these facilities for each apartment unit shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the waste shall be managed in accordance with the agreed plan.

**Reason:** In the interest of residential amenity, and to ensure the provision of adequate refuse storage.

5. All of the parking spaces serving the residential units shall be provided with functional electric vehicle charging points. Details of how it is proposed to comply with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interest of sustainable transportation.

6. No apartment unit shall be occupied until the raised parallel crossing for pedestrians and cyclists as delineated on drawing number 1802-JBB-1B-XX-DR-T-0017 received by the planning authority on the 3<sup>rd</sup> day of June 2020 is completed to the written satisfaction of the planning authority.

**Reason:** In the interest of pedestrian safety.

7. Drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

**Reason:** In the interests of public health and surface water management.

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

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



9. The areas of public open space shown on the lodged plans shall be reserved for such use. These areas shall be soiled, seeded and landscaped in accordance with the landscaping scheme submitted to the planning authority on the 3<sup>rd</sup> day of June 2020. The works shall be completed before any of the apartment units are made available for occupation.

**Reason:** In order to ensure the satisfactory development of the public open space areas

10. 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. Such lighting shall be provided prior to the making available for occupation of the development.

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

11. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development.

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

12. Prior to commencement of development, proposals for a name and numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority.

**Reason:** In the interest of orderly development.

13. The management and maintenance of the proposed development following its completion shall be the responsibility of a legally constituted management company. A management scheme providing adequate measures for the future maintenance of public open spaces, roads and

communal areas shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** To provide for the satisfactory future maintenance of this development in the interest of residential amenity.

14. Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Fridays inclusive and between 0900 and 1300 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.

15. Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the “Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects”, published by the Department of the Environment, Heritage and Local Government in July 2006. The plan shall include details of waste to be generated during site clearance and construction phases, and details of the methods and locations to be employed for the prevention, minimisation, recovery and disposal of this material in accordance with the provision of the Waste Management Plan for the Region in which the site is situated.

**Reason:** In the interest of sustainable waste management.

16. 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:

- (a) location of the site and materials compound(s) including area(s) identified for the storage of construction refuse,
- (b) location of areas for construction site offices and staff facilities,
- (c) details of security fencing and hoardings,
- (d) details of car parking facilities for site workers during the course of construction,
- (e) details of the timing and routing of construction traffic to and from the construction site and to include proposals to facilitate the delivery of abnormal loads to the site and measures to obviate queuing of construction traffic on the adjoining road network,
- (g) measures to prevent spillage or deposit of clay, rubble or other debris on the public road network,
- (h) alternative arrangements to be put in place for pedestrians and vehicles in the case of the closure of any public road or footpath during the course of site development works,
- (i) details of appropriate mitigation measures for noise, dust and vibration and monitoring of such levels,
- (j) containment of all construction-related fuel and oil within specially constructed bunds to ensure that fuel spillages are fully contained. Such bunds shall be roofed to exclude rainwater,
- (k) off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil, and
- (l) means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains.

A record of daily checks that the works are being undertaken in accordance with the Construction Management Plan shall be kept for inspection by the

planning authority. Reason: In the interests of amenities, public health and safety.

**Reason:** In the interests of amenities, public health and safety

17. 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 of roads, footpaths, watermains, drains, public open space 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 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 of the development.

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**Pauline Fitzpatrick**  
**Senior Planning Inspector**

**November 2020**