



An
Bord
Pleanála

Inspector's Report ABP 309560-21

Development	67 apartments
Location	Bessboro, Ballinure, Blackrock, Co.Cork
Planning Authority	Cork City Council
Planning Authority Reg. Ref.	20/39702
Applicant	MWB Two Ltd.
Type of Application	Permission
Planning Authority Decision	Refuse
Type of Appeal	1 st Party v. Refusal
Appellant	MWB Two Ltd.
Observer(s)	Gerard O'Mahony
Date of Site Inspection	11/05/21
Inspector	Pauline Fitzpatrick

1.0 Introduction

The Board is advised of the SHD application for 179 apartments which was refused permission on 25th May 2021 under ref. ABP 308790-20 on lands immediately to the north of the appeal site and to which the current proposal is linked.

2.0 Site Location and Description

- 2.1.1. The site is within the former Bessborough Estate (also referred to as Bessboro) at Ballinure, Blackrock c. 5km to the south-east of Cork City Centre and adjacent to the established residential areas of Mahon and Blackrock.
- 2.1.2. The site, which has a stated area of 0.5654 hectares, forms part of a larger 1.7 hectare landholding in the eastern part of the estate. The site is accessed from the north via an access road constructed in the mid 2000's to serve the site and surrounding lands (file ref. PL28.203096). Bessborough House and associated complex of buildings are located c. 200 metres to the west with an associated 19th century folly immediately adjacent. Lands to the immediate north were the subject of the SHD application and beyond this there are undeveloped lands, a modern convent building, a residential centre and day care centre. Lands to the west and south of Bessborough House are undeveloped and retain their parkland character.
- 2.1.3. The site is bounded to the east by the old passage railway line now developed as a greenway with the boundary delineated by a line of mature trees. The Mahon Retail Park, City Gate Business Park and Mahon Point Shopping Centre are to the east of the greenway. Cork South Ring Road (N40) bounds the estate to the south with the boundary delineated by a line of mature trees.
- 2.1.4. The site is relatively level and is covered in rough grassland.

3.0 Proposed Development

Permission is sought for 67 apartments in an 8 storey block immediately to the south of the SHD proposal for 179 apartments and creche and comprises 'Block D' of the overall scheme. The following tables set out the key details of the subject proposal.

No. Units	67 apartments
Height	8 storeys
Site Area	0.5654 ha
Density	119 units/per ha
Plot Ratio	1.2
Site Coverage	39%
Dual Aspect	65.7%
Open Space	Semi Private 1120 sq.m. Public 1547 sq.m.
Car Parking	51
Bicycle Parking	140

Housing Mix

Beds	
1 bed	29
2 bed (3 person)	0
2 bed (4 person)	38
3 bed	0

3.1. The access to the proposed development will be via the existing access road from Bessborough Road to the north. It is proposed to provide a ramped access to the greenway.

3.2. The documentation that accompanies the application largely pertains to the overall development (ie. inclusive of SHD application) and includes:

- Planning Statement
- Housing Quality Assessment
- Statement of Compliance with Universal Design
- Housing Quality Assessment – Area Schedule
- Architects Design Statement
- Landscape and Visual Impact Assessment
- Photomontages
- Landscape Architecture Public Realm Design Statement
- Architectural Heritage Impact Assessment
- Archaeological Assessment
- Cultural Heritage Legacy of Subject Lands
- Walking and Cycling Assessment and Review
- Traffic and Transport Assessment
- Mobility Management Plan
- Road Safety Audit – Stage 1
- Sunlight Reception Analysis
- Daylight Reception Analysis
- External Light Analysis
- Energy Statement
- Arboricultural Assessment
- Construction Management Plan
- Flood Risk Assessment
- Engineering Services Report
- Outline Specification of Softworks

- Acoustic Design Statement
- Building Life Cycle Report
- Bat Assessment
- Natura Impact Assessment
- Letter of consent from Cork City Council re. alterations to allow for connection to the greenway.

4.0 Planning Authority Decision

4.1. Decision

Refuse permission for two reasons which can be summarised as follows:

1. The proposal would materially contravene the Landscape Preservation zoning objective for the site and the site specific objective SE4 associated with this zoning. The proposal would not reinstate the historic landscape and by reasons of its height and scale would fail to protect the landscape assets set out in SE4, specifically the Historic Landscape in which it is located.
2. The proposal has been designed as part of a larger development and cannot be permitted in isolation due to its scale, relationship to the Historic Landscape in which it sits and its physical detachment. It would be premature pending the determination of the Strategic Housing Development application.

4.2. Planning Authority Reports

4.2.1. Planning Reports

Senior Planner, Strategic and Economic Development in a report dated 20/01/21 states:

- there is no mapping error in the Cork City Development Plan. Some elements of the Mahon LAP were not incorporated into the City Development Plan. The applicant's assertion that there is an anomaly in the plan is not accepted.
- the proposal is not supported by the ZO 12 landscape preservation zone (SE 4) designation, as it would not reinstate the historic landscape, would

constitute development to the south and east of Bessboro House and would, therefore, contravene materially the City Development Plan in relation to the zoning.

- from a strategic planning perspective the proposal is in direct contradiction to the specific objectives of the SE 4 land use zoning objective. While the proposal constitutes one overall development project together with the concurrent application for the SHD on the adjoining site, the fact that the two applications will be determined (at least in the 1st instance) by two different competent authorities means that the proposal must be considered on its own merits. On this basis it is considered that a potential standalone 8 storey building would not be in the best interests of the proper planning and sustainable development of the area taking into account, inter alia, the relevant land use zoning objective.
- On balance, from a strategic planning perspective it is not considered that the proposal has sufficient merit to warrant consideration of a material contravention.
- The planning authority would appear not to have any jurisdiction in relation to the matter of the potential human remains associated with the Mother and Baby home.

Senior Planner, Community, Culture and Placemaking notes:

- The site formed part of a larger parcel of land that was subject to a Section 247 Pre-Planning meeting with Cork City Council. Following the Board's Opinion the applicant decided that the southern part of the landholding to which this application relates should be excluded from the SHD application.
- The proposal is supported in strategic terms and is compliant with the aims of Project Ireland 2040, the NPF and the RSES which envisage population growth for the City and Suburbs.
- The previous zoning objective associated with the site as set out in the lapsed Mahon LAP does not undermine the status of the zoning as set out in the City Development Plan.

- The decisions under refs. TP18/37820 and TP17/37565 which were granted by way of material contravention are not comparable and do not establish a precedent. Their locations and zonings are different.
- The proposal is a material contravention and a section 34(6) procedure is not supported.
- The 8 storey block on a raised plinth will become a dominant feature in this protected landscape. It fails to comply with the provisions of the site specific objective SE4 associated with the Landscape Protection Zone in that it is located to the south east of Bessborough House and does not reinstate the Historic Landscape.
- The proposal must be assessed on its merits. The block, in and of itself, in the absence of the other 3 blocks that are subject of SHD application, would be inappropriate. It would be premature pending the outcome of the SHD application.
- The proposal, coupled with the 3 blocks subject of SHD, would give a density of 143 units per hectare. It is difficult to support this density in the absence of concrete proposals for the provision of mass transit infrastructure.
- No statement of mix has been provided in support of the application. The absence of larger units limits the sustainability of the proposal and does not accord with objective 6.8.
- There are concerns regarding the amenity of future residents due to non-compliance with various Development Plan and Ministerial Guidelines requirements.
- The onus is on the applicant, in consultation with the relevant stakeholders, to address the matter of the legacy of the Bessborough Mother and Baby Home on this site.

A refusal of 2 reasons is recommended.

4.2.2. Other Technical Reports

Urban Roads and Street Design (Planning) Report recommends further information on provision of tactile paving, dropped kerbs and other measures to

improve pedestrian safety, details of materials and finishes, details of the accessible pedestrian and cycling connections and connection to existing and proposed Passage Railway Greenway Upgrade Scheme.

Traffic Regulation and Safety report states that there is concern that the traffic generation data has been diluted and does not accurately reflect the true impact of the development traffic on the local network. The TTA should be redone to ensure a more accurate assessment. To achieve the ambitious modal shifts the MMP must be successfully implemented to reduce car loading on the network. A reduction in the parking quantum from 0.75 to 0.30 is also required to reduce any car loading on the transport network given the concerns on the sensitivity of the junctions and to promote more sustainable transport. The parking quantum set at 0.75 is significantly higher than the 0.37 set for the SHD application. No objection subject to conditions.

Environment Report states that in the context of the current zoning for this area the size and scale of the proposed development is at complete variance with the objectives of the Landscape Protection Zoning. A refusal of permission recommended.

City Architect states that the design concept of the overall scheme with the blocks organised axially using the Folly as the centre point is a reasonable urban design approach on a former country house/landscaped setting. The access route to the development should be treated as a 'home zone' street format to emphasise the relationship between the existing 19th century Folly and the proposed development. The major part of the development is subject of a SHD application. The proposal is premature pending a decision on same.

Conservation Officer states that any architectural justification will depend on the merits of the overall development and the effect of the overall composition in the architectural, landscape, historical and social significance of Bessborough. A refusal of permission recommended on the grounds that the proposal cannot be assessed because it has not been submitted to the City Council as a standalone development. It cannot be constructed and occupied without other works being carried out which are not part of the application and which do not have permission.

City Archaeologist states that any large scale development should be subject to archaeological assessment. It is recommended that all ground works are archaeologically monitored. The investigation for Mother and Baby Home era burials is beyond the scope of archaeology.

Heritage Officer has no objection to the conclusions of the NIS, bat survey and arboricultural assessment. A refusal of permission on grounds of variance with landscape preservation zoning objective recommended.

Drainage Section has no objection subject to conditions.

Housing Section has no objection subject to Part V condition.

Contributions report sets out the general development contribution calculations.

4.3. Prescribed Bodies

Inland Fisheries Ireland recommends that Irish Water confirm there is sufficient capacity in the existing public sewer.

Transport Infrastructure Ireland will not entertain future claims in respect of impacts eg. noise and visual due to the presence of the South Ring Road.

Cork City Childcare has no comments.

Irish Aviation Authority requires that a condition be attached requiring notification of DAA/Cork Airport of intention to commence crane operations.

4.4. Third Party Observations

Objections to the proposal received by the planning authority are on file for the Board's information. The issues raised relate to legacy and potential for the site to have been used as a burial ground, project splitting, traffic congestion, amenities of existing properties, excessive density, housing mix, height, insufficient parking, contravention of zoning provisions, adverse impact on historic landscape, visual impact, lack of consultation and potential for recreational use.

5.0 Planning History

ABP 308790-20 – permission refused for 179 apartments in 3 blocks immediately to the north/north-west of the appeal site for 1 reason. In summary the Board considered that it was premature to grant permission prior to establishing if there is a children’s burial ground associated with the former use of the lands as a Mother and Baby Home and the implications of such for the delivery of the development as proposed.

PL28.203086 (03/27028) – permission granted for an access road and associated services to serve lands at Bessborough Estate.

6.0 Policy Context

6.1. Section 28 Ministerial Guidelines

The following are of relevance to the application:

- Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas including the associated Urban Design Manual (2009),
- Urban Development and Building Heights – Guidelines for Planning Authorities, 2018,
- The Planning System and Flood Risk Management (including associated Technical Appendices) 2009,
- Architectural Heritage Protection Guidelines for Planning Authorities, 2011,
- Framework and Principles for the Protection of the Archaeological Heritage.

6.2. Development Plan

Cork City Development Plan

A small section of the northern part of the site is zoned ZO4 Residential, Local Services and Institutional Uses.

The main body of the site is within ZO12 - Landscape Preservation Zone, the objective for which is to present and enhance the special landscape and visual

character of landscape preservation zones. There will be a presumption against development within these zones, with development only open for consideration where it achieves the specific objectives set out in Chapter 10, Table 10.2.

Objective 10.5 Landscape Preservation Zones: To preserve and enhance the character and visual amenity of Landscape Preservation Zones through the control of development. Development will be considered only where it safeguards the value and sensitivity of the particular landscape and achieve the respective site specific objectives as set out in Table 10.2.

Table 10.2 sets out the following specific objectives for the Bessborough House Landscape Preservation Zone (SE4):

- To reinstate Historic Landscape;
- To seek use of grounds as a Neighbourhood Park in the context of local area plan;
- To allow development within the immediate environs to the north of Bessboro House consistent with the landscape and protected structure significance of the site.

Table 10.1 - lists Landscape Assets to be protected within the Bessboro House Landscape Preservation Zone (SE4):

J: Historic Landscapes (including monuments/historic routes)

G: Landmarks/Natural Features./Cultural Landscape – land forming the setting to existing landmark buildings/buildings of significance.

C: Tree Canopy – Areas with existing woodlands or significant tree groups, or areas with potential for new woodlands

B: Water/River Corridors – rivers, estuary, harbour, The Lough, Atlantic Pond, Docklands, Port of Cork

I: Institutional Open Space.

There are 2 no. Views and Prospects which relate to the site – LT14 and AR 4. Bessborough is considered a Landmark Building.

Objective 10.6 Views and Prospects - To protect and enhance views and prospects of special amenity value or special interest and that contribute to the character of the

City's landscape from inappropriate development, in particular those listed in the development plan. There will be a presumption against development that would harm, obstruct, or compromise the quality or setting of linear views of landmark buildings, panoramic views, rivers prospects, townscape and landscape views and approach road views.

Bessborough House is a protected structure.

Chapter 16 sets out the Development Management Standards for residential development.

Section 16.28 – Building Height in Suburban Areas

Buildings of between 3-5 storeys will be considered appropriate in principle in major development areas and large development sites, subject to normal planning considerations. In exceptional circumstances local landmark buildings may be considered with a height of 20-23 metres (approx. 6-7 storey equivalent). Building heights greater than this will only be considered where specifically identified in a local area plan.

Note: Mahon Local Area Plan has expired

6.3. Natural Heritage Designations

Cork Harbour SPA is c. 60 metres to the south of the appeal site at its nearest point.

7.0 The Appeal

7.1. Grounds of Appeal

The submission by HW Planning on behalf of the 1st Party appellant refers and is accompanied by supporting details including (a) Landscape and Visual Impact Assessment, (b) Landscape Architecture Public Realm Design Statement and (c) Photomontages.

The appeal can be summarised as follows:

7.2. Reason for Refusal No.1 – Contravention of Zoning Objectives

The provisions of section 37(2)(b) of the Planning and Development Act 2000, as amended, apply in this instance with regard to subsections (iii) and (iv).

Subsection (iii)

- The proposal has similar characteristics to the development of 50 apartments granted by the Board to Blackrock National Hurling Club off Cherry Lawn, Blackrock under ref. 306743-20.
- Regard should be had to:
 - Government’s policy to ramp up delivery of housing from its current under-supply as set out in Rebuilding Ireland – Action Plan 2016
 - National Policy Objectives 2(a) and 3(b) of the NPF and National Policy Objectives 33 and 35.
 - Objective RPO 10 of the Regional Spatial and Economic Strategy for the Southern Region.

all which support compact growth in metropolitan areas by prioritising housing development in locations within and contiguous to existing city footprints.

- Cork City Council during the pre-application discussions under SHD stated that it is supportive in principle of the proposed development.
- The development opportunities on the Mahon Peninsula have been recognised in successive City Development Plans since 1998 and the current City Development Plan retains Mahon’s designation as a ‘key development area’.
- The site is very accessible and Mahon is one of Cork’s most sustainable locations. It benefits from established cycle and pedestrian routes in the form of the Passage West Greenway to the east of the site and the Cork Heritage Park Greenway to the south.
- There are a number of high/medium frequency city bus routes accessible from the site providing connectivity to the city centre, Hollyhill & CIT among others. Skehard road has recently undergone significant public transport related

improvements catering for this range of high frequency bus routes which are readily accessible from the site.

Subsection (iii)

- The site is immediately adjoining lands zoned ZO 4 Residential Local Services and Institutional Uses.
- The proposal forms part of a larger development, the bulk of which is subject of a SHD application.
- 2 no residential schemes have been granted on nearby lands, both of which were subject of material contravention (TP 18/37820 and TP 17/37565). Whilst it is acknowledged that the sites were zoned ZO7 Business and Technology they are considered indicative of the emerging pattern of development in the wider environs which is not readily accommodated by the current Development Plan and for which material contravention has had to be resorted to.

7.3. Reason for Refusal No.2 – Prematurity

- The SHD application will be decided in advance of this appeal decision. Thus the proposal will not be premature.

7.4. Height and Scale

- The site is within the Cork City development boundary adjacent to the Passage West and Heritage Park greenways, within walking distance of Mahon which is a significant employment hub, currently served by a high frequency bus service and within the planned LRT corridor between Mahon and Ballincollig.
- In accordance with the provisions of Sustainable Urban Housing: Design Standards for New Apartments: Guidelines for Planning Authorities 2018 it is considered that the site can be defined as a ‘Central and/or Accessible Urban Location’.
- Regard is had to the Urban Development and Building Heights: Guidelines for Planning Authorities 2018. In terms of SPR1 the site is considered ideal for increased scale given its strong connectivity and central accessible location.

- Neither the City Architect or Conservation Officer expressed concerns regarding the scale of the proposal.

7.5. Other Issues

- The sensitivity of the site is acknowledged. Having regard to the submissions made by the Cork Survivors and Supporters Alliance and the Minister for Children, Equality, Disability, Integration and Youth the appellant accepts the appropriateness of the suggestions and invites their provisions to be appropriately addressed by way of appropriate condition.

7.6. Planning Authority Response

Its decision to refuse permission is consistent with the provisions of the Cork City Development Plan 2015 and the proper planning and sustainable development of the area. It has no further comment.

7.7. Observations

The submission from Gerard O'Mahony can be summarised as follows:

- Appropriate, detailed and enforceable planning conditions will be required to be imposed in relation to excavations in the context of the potential for a children's burial location.
- The site could be seen of national importance in the context of the Mothers and Babies Homes legacy.
- The proposal materially contravenes the Landscape Preservation Zone and site specific objective SE4.
- The 2nd reason for refusal on grounds of prematurity is clear and logical.
- The proposed apartment block in an area zoned for landscape preservation is neither of strategic or national importance.
- There are no conflicting objectives in the development plan.
- It is not government policy to construct apartment blocks in areas zoned for landscape preservation.

- To allow the zoning to be overruled would change forever the entire protection and preservations of the estate to the south and east of Bessborough House and render future plans for a green area to link with the existing preserved areas, walkways, woods and bird life to the west and to the east along the Douglas estuary impossible to create.
- There is no extant or permitted development on the site.
- The referenced permissions granted following material contraventions are not comparable and cannot justify the assertion of an emerging pattern of development. The case cited as precedent at Blackrock National Hurling Club is not comparable.
- The building will block views of Douglas Estuary for many living to the north and will be visually obtrusive. It will be intrusive when viewed from the greenway.
- Emphasis is placed on proposed access to the Blackrock and Passage West Greenway.
- The area adds to the biodiversity of the area, to the maintenance of species and is an educational resource for the local population.

8.0 Assessment

I consider that the issues arising can be assessed under the following headings:

1. Introduction and Overview
2. Principle of Development
3. Quantum of Development and Building Height
4. Historic Landscape and Built Heritage
5. Visual Impact
6. Quality of Residential Development
7. Access and Traffic
8. Other Matters
9. Environmental Impact Assessment

10. Appropriate Assessment

8.1. Introduction and Overview

- 8.1.1. The site forms part of a larger landholding of 1.71 hectares located within the grounds of the former Bessborough Estate. A masterplan for its development has been prepared providing for 246 apartments in 4 no. blocks arranged radially to the north and west of the folly. The northern section of the holding is zoned ZO4 'Residential, Local Services, and Institutional Uses' with the southern section zoned ZO12 'Landscape Preservation Zone'. As a consequence of the zoning differences across the site a dual approach in applying for planning permission was required. The larger portion of the site covered by the ZO4 provisions was subject of a SHD application under ref. ABP 308790-20 with the southernmost section subject of the ZO12 provisions subject of a separate application to Cork City Council and which is now subject of this appeal. As noted above permission for the SHD application was refused by the Board on the 25th May on the grounds that it was premature prior to establishing if there is a children's burial ground associated with the former use of the lands as a Mother and Baby Home on the lands and the implications of such on the delivery of the development as proposed.
- 8.1.2. As a consequence of the separate applications each is required to be assessed on its merits. I note that the red line delineating the site boundary includes the access from the road to the north and therefore the proposal in terms of access and connection to services is possible in its own right. Notwithstanding, there is no doubt based on the above referenced masterplan and design approach adopted that the proposal is an integral part of an overall scheme and comprises the terminating element of the four block composition fanning around the folly, rising from 5 storeys to 8 storeys. As per the Architect's Design Statement accompanying the application the development requires to be considered in its totality to properly evaluate the design decisions made.

8.2. Principle of Development

- 8.2.1. The site subject of this appeal save for a small section in the north-eastern corner is zoned ZO12 Landscape Preservation Zone, the objective for which is to preserve

and enhance its special landscape and visual character. These lands are also subject to a related site specific objective 'SE4' the provisions for which are set out in Tables 10.1 and 10.2. and includes the reinstatement of the historic landscape, the use of grounds as a Neighbourhood Park in the context of local area plan and to allow development within the immediate environs to the north of Bessborough House consistent with the landscape and protected structure significance of the site. The landscape assets to be protected within the Bessborough House Landscape Preservation Zone SE4 include (J) Historic Landscapes, (G) land forming the setting to existing landmark buildings/buildings of significance and (c) significant tree groups. There is a presumption against development within this zone with development only open for consideration where it achieves the said specific objectives.

- 8.2.2. The extent of the Landscape Preservation Zone SE4 as set out in the City Development Plan differs from that set out in the Mahon LAP with the view put forward with the application that there is a mapping error in the former. This is not accepted by the Senior Planner, Strategic and Economic Development who, in a report dated 20/01/21, stated that some elements of the Mahon LAP were not incorporated into the City Development Plan. Notwithstanding, the Mahon LAP has expired and the provisions of the City Development Plan are applicable. The proposed residential development would contravene materially the zoning provisions therein.
- 8.2.3. I submit that the subject site and that zoned residential immediately to the north are homogenous in terms of landscape value and sensitivity and are largely indivisible. The site is set back and screened from the Bessborough House and does not form part of the more formal parkland setting to the south of the protected structure.
- 8.2.4. The development site, taken in the context of the overall scheme to which it would form an integral component, on lands which can be considered to be located in a suburban and accessible location, within walking distance of good quality public transport and amenities and immediately adjoining an established greenway route, could be considered appropriate for development in a compact form comprising higher density units which would be consistent with the provisions of the current City Development Plan and the regional spatial and economic strategy in addition to the policies and intended outcomes of current Government policy, specifically the

National Planning Framework, which looks to secure more compact and sustainable urban development with at least half of new homes within Ireland's cities to be provided within the existing urban envelope (Objective 3b). Therefore, in principle, should the lands immediately to the north be developed I submit that the subject site would be suitable for residential development whereby a material contravention of the zoning provisions of the development plan could be countenanced.

- 8.2.5. However, in view of the fact that permission has not been forthcoming for the northern element of the overall scheme with no timescale as to when and if the lands can be brought forward for development having regard to the legacy issues that need to be resolved as previously referenced, it is my opinion that to allow for a material contravention for what would be, in effect, an isolated site without any context would be inappropriate and would not be in accordance with the proper planning and sustainable development of the area.

8.3. **Quantum of Development, Building Height and Design**

8.3.1. ***Density***

- 8.3.2. The development for 67 apartments equates to a density of 119 units per hectare. Taken in totality the overall scheme of 246 units would have a density of 144 units per hectare.

- 8.3.3. In the context of the types of locations in cities and towns that may be suitable for increased densities as set out in the Apartment Guidelines 2018 (amended 2020) I would concur with the Inspector in her assessment on the adjoining SHD application that the site falls within the category of an 'Intermediate Urban Location' given its location within 1km of employment sites and high frequency urban bus services in Mahon to the east and its distance of c.1.3 km from Mahon District Centre. The guidelines note that such locations are generally suitable for smaller-scale, higher density development that may wholly comprise apartment or alternatively, medium-high density residential development of any scale that includes apartments to some extent (this will also vary, but broadly greater than 45 dwellings per hectare net). As noted by the Inspector on the SHD application the area will transition to an accessible urban location over time as planned public transport infrastructure detailed in the Cork Metropolitan Area Transport Strategy 2040 (LRT and Bus

Connects) comes on stream. The guidelines note that such locations are generally suitable for large scale higher density apartment developments.

- 8.3.4. On the basis of the above I consider that the density both of the development subject of this appeal to be acceptable.

Building Height and Design

- 8.3.5. As noted above I consider that whilst the application must be assessed on its merits the fact that it has been designed within the context of a larger scheme which increases in height from west to east with the block subject of this appeal comprising the terminating element of the four block composition fanning around the folly is of particular import.
- 8.3.6. I note that the Inspector in her assessment of the adjoining development had no objection to the height of Blocks A to C noting the location of the site within the Mahon Key Development Area which allow for buildings 3-5 storeys higher and, 'in exceptional circumstances' height of up to 23 metres permissible. Block C which exceeds this maximum by less than 1 metre was acceptable.
- 8.3.7. Block D subject of this appeal at 8 storeys high will have an overall height of 26.8 metres and represents a deviation from the 23 metre limit as set in the development plan. Certainly, in the context of the overall development as originally proposed a case could be made for the height allowing for a graduated step up from west to east providing for a focal and terminating point at the southernmost point at its interface to the South Link Road. With regard had to the Building Heights Guidelines (SPPR1 and SPPR3) and National Planning Framework (Objective 35) the proposal is considered acceptable.
- 8.3.8. However, there is no extant permission for the bulk of the development with no timeframe as to when and if the legacy issues arising and for which permission was refused can be resolved. The resolution of these issues may also have implications in terms of the potential realisation of the design as proposed and, thus knock-on impacts in terms of development on the subject site.
- 8.3.9. I submit that to allow for the development without the requisite permission for the other three blocks would result in a somewhat randomly located and isolated apartment block deficient of any context in terms of urban design and legibility and

would comprise a haphazard and piecemeal development which would detract from the character of the area and the protected landscape.

8.4. Historic Landscape and Built Heritage

- 8.4.1. The appeal site is an undeveloped section of the former Bessborough Estate. It is at the south-eastern end of the estate and to the south-east of Bessborough House (protected structure). The site comprises of grass and scrub and is unmaintained. There are significant stands of trees along the eastern boundary to the greenway and to the south along the boundary to the South Link Road.
- 8.4.2. As noted above the majority of the site area is within the landscape preservation zone ZO12 (with associated site specific objective SE4).
- 8.4.3. Structures of conservation interest in proximity include Bessborough House, Bessborough Castle Folly and a farmyard complex.
- 8.4.4. In terms of Bessborough House I would concur with the Inspector in her assessment on the SHD application that the development positioned to the side of the house is not in the line of any principal views to and from the house which are orientated to the south. It will not be visible from the original house as it is screened by later development. From the area to the front of the house the upper sections of the block are visible in winter but are screened when trees are in foliage. I refer the Board to photomontage VP1A in this regard. The proposed development is visually separate to the protected structure and I submit that it would not impact unduly on the character of setting of this structure.
- 8.4.5. In view of the site's setback from the farmyard complex which is to the north the issue of significant impact does not arise.
- 8.4.6. The Castle Folly within the curtilage of Bessborough House has the benefit of protection and is immediately to the west of the appeal site. The structure forms the axis for the design approach with the blocks radiating from same with stepped heights terminating in Block D which is the subject of this appeal. The approach is generally acceptable to the City Council's Conservation Officer and Architect and I note that the Inspector in her assessment of the SHD application did not have any objections subject to a reduction in the height of northern section of Block C.

8.4.7. However, the reservations as detailed above are also relevant in terms of the potential impact on the historic landscape. Without any context to frame the proposal it would result in a somewhat randomly located and isolated apartment block and would comprise a haphazard and piecemeal development which would detract from the character of the area and the protected landscape.

8.5. Visual Impact

8.5.1. I refer the Board to the Inspector's assessment in section 12.6 in her report on the adjoining proposal in which the cumulative visual impacts of the overall development inclusive of Block D which is the subject of this appeal are considered and assessed.

8.5.2. The photomontages accompanying the application provide images of the development subject of the appeal alone and cumulatively with the SHD proposal. Block D on its own will introduce a prominent new built form into Views 4, 5, 6 all of which represent short and medium range views from Jacob's Island, the greenway bridge and from N40 Mahon Interchange bridge.

8.5.3. The introduction of residential development which exceeds the prevailing 2-3 storey building height in the vicinity will give rise to a level of visual change both on local views and on longer range views. In the context of the design concept for the overall scheme I consider that the height, scale and appearance of the development would not be out of character with the emerging pattern of development in the area and will be viewed as an extension of the baseline urban condition to the immediate east and the Mahon Key Development Area of which the site is part.

8.5.4. However, as set out above the proposal on its own merits would result in a somewhat randomly located and isolated apartment block with no context in terms of urban design and legibility and would comprise a haphazard and piecemeal development. On its own it would become a dominant feature and would detract from the character of the area and the protected landscape.

8.6. Quality of Residential Development

Compliance with SPPRs

- 8.6.1. In terms of the guidance set out in the Sustainable Urban Housing Design Standards for New Apartments Guidelines for Planning Authorities 2018 the following is noted:
- 8.6.2. SPPR1 - The proposed development provides for 43.3% one bed apartments and 56.7% 2 bedroom units, the latter of which are four person units. The proposal therefore accords with the requirements.
- 8.6.3. SPPR 3 - The schedule of floor areas set out in the Housing Quality Assessment indicates that floor areas for all apartment units meet or exceed the minimum specified with all but 8 units exceeding the minimum floor area standards by at least 10%. Thus the requirements of Section 3.8 are met.
- 8.6.4. SPPR 4 - 65.7% of the units have dual aspect thus exceeding the 50% requirement for suburban/intermediate locations
- 8.6.5. SPPR 5 - floor to ceiling heights to upper floor units of 3.15 metres are proposed which exceed the minimum requirements.
- 8.6.6. SPPR 6 – There is a maximum of 9 units per floor per core and thereby is below the maximum allowable of 12 per floor per core.
- 8.6.7. The minimum storage requirements, aggregate floor areas for living/dining/kitchen rooms, minimum widths for living/dining room, minimum bedroom floor areas/width and minimum aggregate bedroom floor areas and private balcony spaces as set out in Appendix 1 are met.
- 8.6.8. A landscaped podium is to be provided to the south of the block and is to provide for communal outdoor amenity spaces for the residents.
- 8.6.9. Communal facilities are not proposed in Block D. Facilities within Block A are proposed to serve the entire scheme.

Sunlighting and Daylighting

- 8.6.10. The application is accompanied by a Sunlight Reception Analysis, Daylight Reception Analysis and Daylight Reception Analysis which pertain to the proposal subject of this appeal and the development subject of the SHD application as a whole. The Board is referred to the Inspector's report on the said SHD application.

8.6.11. In considering daylight, sunlight and overshadowing impacts I note that the Section 28 Urban Development and Building Height Guidelines, 2018 (section 3.2) and the Sustainable Urban Housing Design Standards for New Apartments Guidelines, 2018/2020 (section 6.6) state that regard should be had to the quantitative performance approaches outlined in guides like the BRE guide Site Layout Planning for Daylight and Sunlight (2nd edition) and BS 8206-2:2008 – Lighting to Buildings – Part 2: Code of Practice for Daylighting.

8.6.12. The submitted assessments rely on the standards in the following documents:

- BRE Report Site Layout Planning for Daylight and Sunlight
- British Standard EN17037/EN17037 Lighting for Buildings: Code of Practice for Day Lighting (supersedes BS 8206-2:2008 British Standard Lighting for Buildings – Code of Practice for Daylighting) and
- CIBSE guide 10 Day light and lighting for buildings.

8.6.13. I refer the Board to the submitted Daylight Reception Analysis. BRE and BS guidance recommend that for new dwellings daylight to habitable rooms should exceed a calculated Average Daylight Factor (ADF) of 2% for a kitchen, 1.5% for a living room and 1% for a bedroom. The applicant has undertaken a calculation of the amount of daylight received by rooms for a sample of units at lower levels and assumes all blocks within the entire scheme are in place. All selected habitable rooms achieve an ADF equal or in excess of the recommended BRE and BS guidance (ADF factors between 1% and 2%). I am satisfied that the rooms tested represent the worst case scenario on the lowest 2 levels and that on this basis it is reasonable to predict that rooms not tested would also meet the ADF standards.

8.6.14. There are no neighbouring buildings within the vertical sky component (VSC) test distance except for the 7th floor element of Blocks C and D which show a building to the east and rear of the B & Q store. The said building has no windows and was not analysed.

8.6.15. The Sunlight Reception Analysis with an Appendix providing 1 hourly Sunlight/Shadow illustrations addresses the effects of the proposal on the sunlight and shadow status of amenity spaces within the development and on neighbouring lands. BRE guidance recommends that at least 50% of proposed amenity areas

within a development should have access to sunlight for a minimum of 2 hours a day when assessed for 21st March. For existing spaces there is also a requirement that the level of sunlight should not reduce below 80% of its former value. To this end, an analysis of the sunlight exposure levels for the amenity areas in the proposed scheme was carried out using a 3D model and the results are shown in tabular form

8.6.16. Block D is to the north of the open space area proposed at podium level. The space would receive 9 sun hours on at least 50% of the area on March 21st and is well in excess of the minimum requirement. Based on the assessment submitted and having regard to the referenced guidance I am satisfied that the proposed amenity areas will meet and exceed sunlight standards recommended under BRE guidance

8.6.17. **Noise**

8.6.18. Block D subject of this application will be the closest to the South Ring Road (N40). An Acoustic Design Statement accompanies the application which considers the potential for inward noise impacts from same. There are no national policy documents or guidance in relation to the acoustic design of residential dwellings. The noise assessment was undertaken based on the results of the noise model as recommended in the document *ProPG: Planning & Noise Professional Practice Guidance on Planning & Noise, New Residential Development* (May 2017) with regard had to *BS 8233 Guidance on sound insulation and noise reduction for buildings* (2014). The site is categorised as having a medium noise risk and is suitable for residential development subject to mitigation including glazing and ventilation measures. The external noise levels comply with the criterion set out in ProPG.

8.6.19. Based on the assessment submitted and having regard to the referenced guidance I am satisfied that the proposed apartments will enjoy a good internal noise environment (subject to the identified mitigation measures) and that the external areas including amenity areas will provide for a good level of amenity.

8.7. **Access and Traffic**

8.7.1. The application is accompanied by a Traffic and Transport Assessment, Mobility Management Plan, Walking and Cycling Assessment and Review, Mobility

Management Plan and Road Safety Audit- Stage 1. The assessments consider the cumulative impact of the development as a whole (Blocks A, B ,C and D).

- 8.7.2. The site is be accessed via an existing access road that extends from Bessborough Road to the north with a pedestrian/cycle connection to the greenway. The site is served by bus routes with access via the greenway providing a more direct access to a bus stop on the Mahon Link Road (c. 400 metres from the site). The Cork Metropolitan Area Transport Strategy 2040 (CMATS) includes proposals for Light Rail Transit and Bus Connects in this area.
- 8.7.3. The TTA indicates that the road network in the area experiences congestion and that this will continue with or without the proposed development in place. The proposed development both in its own right and cumulatively within the overall development context would make a small contribution to this congestion. The proposed development would make a small contribution to this congestion and, of itself, would not have a significant impact on the local road network. CMATS sets out a strategy for significant investment in the sustainable transport network in Cork City with a view to achieving greater use of public transport and reduced car dependency. I am of the view that the proposed development would not have a significant impact on local traffic conditions and it supports the aspirations of the CMATS in relation to sustainable travel.
- 8.7.4. Traffic generated during the construction phase by its nature is temporary in duration and can be addressed by way of condition.
- 8.7.5. Block D is to provide for 51 spaces at under podium level. This equates to 0.76 spaces per apartment unit. The City Council Traffic Section considers this to be excessive and should be reduced to 0.30. 0.37 space per apartment unit was proposed in the SHD application. In the interests of reducing car loading on the network and promoting more sustainable transport patterns I consider a reduction to be reasonable and could be addressed by way of condition should the Board be disposed to a favourable decision.

8.8. **Other Matters**

- 8.8.1. Legacy issues with specific regard to the potential for unrecorded burials within the overall landholding subject of the masterplan constituted a material consideration in

the assessment of the SHD application and which was subject of an oral hearing. The areas of concern are to the north of the folly. The Board refused permission for the said SHD on the grounds that it was premature to grant permission prior to establishing if there is a children's burial ground associated with the former use of the lands as a Mother and Baby Home and the implications of such on the delivery of the development as proposed.

8.8.2. There are no issues identified in terms of site services with the site located within Flood Zone C with no issues arising in respect of flooding.

8.8.3. The overall development provides for a creche in Block A.

8.9. Environmental Impact Assessment – Preliminary Screening for EIAR

8.9.1. An Environmental Impact Assessment Screening report was not submitted with the application.

8.9.2. The proposed development is for 67 apartments. Whilst it originally formed part of an overall scheme of 246 residential units on a site of 1.7 hectares, permission for the 179 units to the north was refused under ref. ABP 308790-20. The said 179 units are not subject of this appeal and this EIAR screening is being carried out in respect of the subject development only.

8.9.3. The development subject of this application falls within the class of development described in 10(b) Part 2, Schedule 5 of the Planning and Development Regulations, 2001, as amended. EIA is mandatory for developments comprising over 500 dwelling units or over 10 hectares in size or 2 hectares if the site is regarded as being within a business district.

8.9.4. The number of dwelling units proposed at 67 is well below the threshold of 500 dwelling units noted above. The site has an area of 0.5654 hectares and is located within an existing built up area but not in a business district. The site is therefore well below the applicable threshold of 10 hectares.

8.9.5. The proposal for 67 apartments on a site that forms part of the historic Bessborough estate is located in the wider Blackrock/Mahon suburban area of Cork City which is characterised by a mix of residential, commercial and institutional uses. The site comprises grassland, artificial surfaces, scrub and a treeline along the eastern

boundary. The introduction of a residential development will not have an adverse impact in environmental terms on surrounding land uses. The proposed development would not give rise to waste, pollution or nuisances that differ from that arising from other housing in the neighbourhood. It would not give rise to a risk of major accidents or risks to human health. The proposed development would use the public and drainage services of Irish Water and Cork City Council upon which its effects would be marginal. The site is within a landscape protection area. The application is accompanied by an Architects Design Statement, Landscape and Visual Impact Assessment, Photomontages, Landscape Architecture Public Realm Design Statement, Architectural Heritage Impact Assessment, Archaeological Assessment and Cultural Heritage Legacy of Subject Lands. These address the issues arising in terms of the sensitivities in the area. The site is not within a European site. The issues arising from the proximity/connectivity to a European Site can be adequately dealt with under the Habitats Directive and the proposed mitigation measures included within the NIS are considered to adequately address any significant likely effects that would require to be addressed in an EIAR.

8.9.6. I further note the EIA Screening Report submitted in respect of the SHD proposal under 308790-20 which included the information required under Schedule 7A of the Planning and Development Regulations, 2001, as amended. I refer the Board to section 13 of the Inspector's report on the said file in which screening for EIA was conducted and the conclusion that the proposed sub-threshold development would not be likely to have significant effects on the environment and that an EIA is not required. I am therefore further satisfied that there are no in combination impacts that would result in the proposed development being likely to have significant effects on the environment.

8.9.7. Having regard to

- the nature and scale of the proposed development, which is below the threshold in respect of Class 10(iv) of Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended,
- the location and context of the site and pattern of development in the surrounding area,

- The availability of mains water and wastewater services to serve the proposed development,
- The guidance set out in the “Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-threshold Development”, issued by the Department of the Environment, Heritage and Local Government (2003),
- The criteria set out in Schedule 7 of the Planning and Development Regulations 2001 (as amended)

I have concluded that, by reason of the nature, scale and location of the subject site. the proposed development would not be likely to have significant effects on the environment and that on preliminary examination an environmental impact assessment report was not necessary.

8.10. **Appropriate Assessment**

8.10.1. The applicant has submitted a Natura Impact Statement as part of the planning application and pertains to the development as a whole proposed for the applicant’s landholding. I refer the Board to the AA conducted by the Inspector on the SHD application with which I concur.

Stage 1 Appropriate Assessment Screening

8.10.2. The requirements of Article 6(3) as related to screening the need for appropriate assessment of a project under part XAB, section 177U and section 177V of the Planning and Development Act 2000 (as amended) are considered fully in this section.

Compliance with Article 6(3) of the Habitats Directive

8.10.3. The Habitats Directive deals with the Conservation of Natural Habitats and of Wild Fauna and Flora throughout the European Union. Article 6(3) of this Directive requires that any plan or project not directly connected with or necessary to the management of the site but likely to have a significant effect thereon, either individually or in combination with other plans or projects shall be subject to appropriate assessment of its implications for the site in view of the site’s conservation objectives. The competent authority must be satisfied that the proposal

will not adversely affect the integrity of the European site before consent can be given. The proposed development is not directly connected to or necessary to the management of any European site and therefore is subject to the provisions of Article 6(3).

- 8.10.4. The NIS has been prepared by Kelleher Ecology Services Ltd and is supported by an Avian Survey. The Report provides a description of the proposed development, identifies European Sites within a possible zone of influence of the development and identifies potential impacts in relation to the Cork Harbour SPA and Great Island Channel SAC.
- 8.10.5. Having reviewed the documents and submissions, I am satisfied that the submitted information allows for a complete examination and identification of all the aspects of the project that could have an effect, alone, or in combination with other plans and projects on European sites.

Need for Stage 1 AA Screening

- 8.10.6. The project is not directly connected with or necessary to the management of a European Site and therefore it needs to be determined if the development is likely to have significant effects on a European site(s). The proposed development is examined in relation to any possible interaction with European sites designated Special Conservation Areas (SAC) and Special Protection Areas (SPA) to assess whether it may give rise to significant effects on any European Site in view of the conservation objectives of those sites.

Brief Description of the Development

- 8.10.7. The applicant provides a description of the project in Section 2.3 of the Screening Report. The development is also summarised in Section 3 of this Report. In summary, permission is sought for a housing development comprising 67 no. apartments in an 8 storey block on a site of 0.5654 hectares. The site is part of a 1.7 hectare landholding that includes the lands immediately to the north of the site. The site forms part of the historic Bessborough estate, which sits within the wider Blackrock / Mahon suburbs. Lands immediately adjoining are undeveloped. The site is situated just north of the N40 Cork South Ring Road and the Douglas River Estuary / Lough Mahon transitional waterbody. Lands to the north, east and west of the estate are in residential and commercial use. The site is serviced by private

water and drainage networks that are connected to the public network. Surface water from the site will drain (via existing infrastructure) to a public storm sewer network that discharges to Douglas River Estuary / Lough Mahon to the south west of the site. The dominant habitat on site is rough grassland and scrub and the site does not currently support habitats of ex-situ ecological value for relevant qualifying interests of any Natura 2000 site. The ecology team undertook site visits in March, October and November 2020 in order to assess potential waterbird usage of and movements across the site. One qualifying species of the Cork Harbour SPA, Black-Headed Gull was noted flying over the site during the surveys. No other qualifying species of Cork Harbour SPA were recorded. The non-native invasive species of Japanese Knotweed, Buddleia and Winter Heliotrope were recorded within the site.

Zone of Influence and Potential for Impacts

- 8.10.8. Figure 2.1 of the NIS shows Natura 2000 sites in the Cork. In terms of the zone of influence, I would note that the site is not within or immediately adjacent to a Natura 2000 site. The nearest Natura 2000 sites are the Cork Harbour SPA (Site Code 004030) located c. 60 metres to the south of the site at the closest point and the Great Island Channel SAC (Site Code 001058) located c. 4.5 km east of the site at the closest point. There are no other Natura 2000 sites within a 15 km radius of the site.
- 8.10.9. Section 3.1 of the NIS identifies potential impacts associated with the proposed development taking account of the characteristics of the proposed development in terms of its location and the nature and scale of works proposed, examines whether there are any European sites within the zone of influence, and assesses whether there is potential for a significant effect or effects on any European sites, either alone or in combination with other plans or projects. The site is not located in a Natura 2000 site and as such the potential for direct impacts can be excluded. Having regard to the source-pathway-receptor model the potential for indirect impacts arising due to surface water runoff, waste-water discharge, disturbance / displacement and the spread of invasive plant species needs to be considered. The NIS identifies the need to consider the potential for impacts arising from flooding, however, I have excluded any possibility of risks associated with flooding as the site is not within a flood zone and is at low risk of flooding.

8.10.10. Taking account of the characteristics of the proposed development in terms of its location and scale of works, and the conservation objectives for European sites within the zone of influence, I consider that the following impact mechanisms need to be examined:

Construction Phase:

- Surface water run-off from the site that contains silt, sediments and/or other pollutants impacting water quality in downstream Natura 2000 sites.
- Disturbance and displacement of species of qualifying interest of Natura 2000 sites due to disturbance associated with construction activities and increased human activity during the construction.
- Indirect habitat loss or deterioration.
- The potential for the spread of invasive species that would result in habitat loss or damage in downstream locations including Natura 2000 sites.

Operational Phase:

- Surface water run-off from the site that contains silt, sediments and/or other pollutants impacting water quality in downstream Natura 2000 sites.
- Foul effluent discharges impacting water quality in downstream Natura 2000 site.
- Disturbance and displacement of qualifying species (inc. collision risk) due to disturbance associated with the transition to the site to urban land use and increased human activity in the area.

European Sites

8.10.11. Summary of European Sites within the possible zone of influence:

Cork Harbour SPA [Site Code 004030]

c. 0.06km south of the proposed development. Discharge Points: surface water sewer discharge within the designated area and WWTP outfall >4.0 km.

CO – To maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA.

Qualifying Interests/Species of Conservation Interest: Little Grebe (*Tachybaptus ruficollis*) [A004], Grey Plover (*Pluvialis squatarola*) [A141], Great Crested Grebe (*Podiceps cristatus*) [A005], Lapwing (*Vanellus vanellus*) [A142], Cormorant (*Phalacrocorax carbo*) [A017], Dunlin (*Calidris alpina*) [A149], Grey Heron (*Ardea cinerea*) [A028], Black-tailed Godwit (*Limosa limosa*) [A156], Shelduck (*Tadorna tadorna*) [A048], Bar-tailed Godwit (*Limosa lapponica*) [A157], Wigeon (*Anas penelope*) [A050], Curlew (*Numenius arquata*) [A160], Teal (*Anas crecca*) [A052], Pintail (*Anas acuta*) [A054], Black-headed Gull (*Chroicocephalus ridibundus*) [A179], Shoveler (*Anas clypeata*) [A056], Common Gull (*Larus canus*) [A182], Red-breasted Merganser (*Mergus serrator*) [A069], Lesser Black-backed Gull (*Larus fuscus*) [A183], Oystercatcher (*Haematopus ostralegus*) [A130], Golden Plover (*Pluvialis apricaria*) [A140], Redshank (*Tringa totanus*) [A162], Common Tern (*Sterna hirundo*) [A193] and Wetlands and [A999]

Great Island Channel SAC (001058)

c. 4.5 km east of the proposed development. Discharge points: surface water sewer discharge 5.3 km and WWTP outfall n/a.

CO - To maintain the favourable conservation condition of the Annex I habitat(s) for which the SAC has been selected.

Qualifying Interests/Species of Conservation Interest: Mudflats and sandflats not covered by seawater at low tide [1140] and Atlantic salt meadows (*Glaucopuccinellietalia maritimae*) [1330].

8.10.12. Consideration of impacts on Cork Harbour SPA (site code 004030) and Great Island Channel SAC (site code 001058):

- There is nothing unique or particularly challenging about the proposed urban development, either at construction phase or operational phase.
- There are no surface water features within the site. During the construction phase surface water from the proposed development will drain, via a private sewer serving the Bessborough lands, to the public stormwater sewer, which in turn discharges to the Douglas Estuary River. The outfall location is within the

designated area of the Cork Harbour SPA. The Great Island SAC is c. 5.3 km to the east of the outfall location. The NIS concludes that there is a hydrological connection between the development site and the Cork Harbour SPA via the surface water network and that there is the possibility that surface water runoff containing silt or contaminants could reach the SPA and have effects on the qualifying interests of the site. A precautionary approach is taken in relation to the potential for impacts on the Great Island Channel SAC due to its location within Cork Harbour and the occurrence of tidal inundation onto this site. During the construction phase environmental control measures are to be implemented as part of the project to ensure the appropriate management and control of surface water runoff arising from the development. Construction phase surface water environmental controls are listed as part of the mitigation measures for the project under Section 4.2.1 of the NIS and in the submitted Construction Management Plan. The measures outlined include measures that are intended to reduce or avoid significant effects on QI's of the Cork Harbour SPA and the Great Island Channel SAC. The potential for effects on QI's of these Natura 2000 sites cannot, therefore, be screened out and Stage II Appropriate Assessment is required in respect of the Cork Harbour SPA and as a precaution more distant Great Island Channel SAC.

- During the operational phase clean, attenuated surface water will discharge to the surface water system and Cork Harbour in small and controlled volumes. (see Engineering Services Report). The pollution control measures to be undertaken during the operational phase are standard practices for urban sites and would be required for a development on any urban site in order to protect local receiving waters, irrespective of any potential hydrological connection to Natura 2000 sites. In the event that the surface water treatment measures were not implemented or failed, I remain satisfied that the potential for likely significant effects on the qualifying interests the Cork Harbour SPA and the Great Island Channel SPA can be excluded given the distant connection, the nature and scale of the development and the volume of the receiving waters within Cork Harbour (dilution factor).
- The foul discharge from the proposed development would drain, via the public network, the Cork City WWTP before discharging to Lough Mahon. The outfall

point is over 4 km from the Cork Harbour SPA. Irish Water have reported some non-compliance at the WWTP in relation to total nitrogen and phosphorous emissions. However, ambient monitoring of the transitional and coastal receiving waters indicate that discharge from the WWTP do not have an observable negative impact on water quality or WFD status of the receiving waters (Irish Water 2019). The NIS notes that the WWTP has significant capacity to accept additional organic loading of 573 PE from the overall development proposed on the applicant's landholding. The foul discharge from the site is negligible in the context of the overall licenced discharge at Cork WWTP, and thus its impact on the overall discharge would be negligible. On this basis, I am satisfied that the potential for significant impacts on the Cork Harbour SPA and the Great Island Channel SAC due to impacts arising from foul discharges from the proposed development can be screened out and this issue does not need to be carried forward for further consideration.

- Direct disturbance / displacement impacts: The designated area of the Cork Harbour SPA is located 60 metres from the proposed sewer upgrade at the site at its closest points. The SPA is designated for the protection of a range of waterbird species that typically forage and roost along the intertidal mudflats and coastal wetlands or fields. The potential for direct disturbance and/or displacement of waterbird species associated with the SPA due to noise and/or disturbance during the construction and operational phases is considered. The nearest area of waterbird habit (mudflats) associated with this Natura 2000 site is c. 60 metres from the site. The N40 South Ring Road is located between the site and the SPA and the site is screened from the mudflats by a mature treeline. It is considered that the background noise levels associated with the N40 and other existing urban activities will outweigh the noise from the construction works, particularly for waterbirds / receptors located on mudflats adjacent to the public road. No impacts are envisaged. The potential for light spillage into the SPA is excluded due to the nature and extent of artificial lighting to be installed during construction and operational phases, the level of vegetative screening (tree line) to the south of the site and the buffer provided by the N40 dual carriageway.

- The potential for ex-situ impacts outside of the boundary of the SPA on waterbirds from the Cork Harbour SPA is considered. Disturbance and displacement, including the potential for collision risk is considered. Avian Surveys (Appendix A) were undertaken on dates in October and November 2020 to determine the potential for waterbirds from the Cork Harbour SPA to utilise the site or commute over the site. The site does not support habitats of ex-situ ecological value for qualifying interest species of the Cork Harbour SPA. The surveys indicated that the site is not used by any qualifying species of the Cork Harbour SPA or any other waterbirds for foraging / roosting. In addition, the site is not of known historical importance for waterbirds. One qualifying species of the SPA – Black Headed Gull - was found to overfly the site during the avian surveys. Local movements of low numbers of this species were recorded on and in the vicinity of the study site. The flight heights observed over the study area were up to 40 m above ground level with 64% >20m above ground. Block D is to be 26.8 m above ground level. The NIS states that Black Headed Gulls (along with other water birds) are adept at navigating around urban environments (being commonly associated with the River Lee within Cork City Centre) and will quickly habituate to the presence of new structures and react accordingly. The proposed development will not have aviation lights or other bright lights that might attract or disorientate waterbirds. Given the absence of local waterbird usage of the study site for foraging / roosting combined with the relatively low level of flyovers of the site by local waterbirds, the potential for significant collision impacts as a result of the proposed development are excluded. On the basis of the foregoing the potential for significant impacts on waterbirds that are a qualifying species of the Cork Harbour SPA due to disturbance / displacement / collision effects can be screened out. I consider that the survey methodology and timing of bird surveys are adequate to support the conclusions of the NIS.
- Site survey has identified the invasive species of Japanese Knotweed (high risk), Buddleia (medium risk) and Winter Heliotrope (medium risk) within the site. Japanese Knotweed and Buddleia are listed on the third schedule of the EC (Bird and Habitats) Regulations 2011 and it is an offence to disperse, spread or otherwise cause them to grow in any place. The potential for

the spread of invasive species that would result in habitat loss or damage in downstream locations including Natura 2000 sites, is also raised in the NIS. It is noted that there are no watercourses or drains on the site that could act as a conduit for the spread of these species into the nearby Cork Harbour SPA. Therefore, the potential for habitat loss or damage within the SPA due to the spread of invasive species is screened out.

Screening Determination

8.10.13. 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 of the project, it has been concluded that the potential for significant effects on two European Sites within the Cork Harbour area as a result of the project individually or in combination with other plans or projects cannot be excluded in view of the Conservation Objectives of those sites, and that Appropriate Assessment is therefore required for the following sites:

- Cork Harbour SPA [004030]
- Great Island Channel SAC [001058]

Stage 2 Appropriate Assessment

8.10.14. The relevant European sites for Stage 2 AA are the Cork Harbour SPA (004030) and Great Island Channel SAC (001058). This Stage 2 assessment will consider whether or not the project would adversely affect the integrity of these European sites, either individually or in combination with other plans and projects in view of the conservation objectives for both sites.

AA: Table 2: Qualifying Interests, Conservations Objectives and Potential for Impacts

<p>Cork Harbour SPA (Site Code 004030) c. 0.06km south of the proposed development. Discharge Points: surface water sewer discharge within the designated area and WWTP outfall >4.0 km.</p>	
<p>Conservation Objectives and Qualifying Interests / Special Conservation Interests</p>	<p>Potential Impacts</p>
<p>CO – To maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA.</p> <p>Qualifying Interests/Species of Conservation Interest: Little Grebe (<i>Tachybaptus ruficollis</i>) [A004], Grey Plover (<i>Pluvialis squatarola</i>) [A141], Great Crested Grebe (<i>Podiceps cristatus</i>) [A005], Lapwing (<i>Vanellus vanellus</i>) [A142], Cormorant (<i>Phalacrocorax carbo</i>) [A017], Dunlin (<i>Calidris alpina</i>) [A149], Grey Heron (<i>Ardea cinerea</i>) [A028], Black-tailed Godwit (<i>Limosa limosa</i>) [A156], Shelduck (<i>Tadorna tadorna</i>) [A048], Bar-tailed Godwit (<i>Limosa lapponica</i>) [A157], Wigeon (<i>Anas penelope</i>) [A050], Curlew (<i>Numenius arquata</i>) [A160], Teal (<i>Anas crecca</i>) [A052], Pintail (<i>Anas acuta</i>) [A054], Black-headed Gull (<i>Chroicocephalus ridibundus</i>) [A179], Shoveler (<i>Anas clypeata</i>) [A056], Common Gull (<i>Larus canus</i>) [A182], Red-breasted Merganser (<i>Mergus serrator</i>) [A069], Lesser Black-backed Gull (<i>Larus fuscus</i>) [A183], Oystercatcher (<i>Haematopus ostralegus</i>) [A130], Golden Plover (<i>Pluvialis apricaria</i>) [A140], Redshank (<i>Tringa totanus</i>) [A162], Common Tern (<i>Sterna hirundo</i>) [A193] and Wetlands and [A999]</p>	<p><u>Direct Effects:</u> No direct effects due to separation distance.</p> <p><u>Indirect Effects:</u> Potential for indirect effects from wastewater discharge; operational phase surface water discharge; disturbance / displacement; and invasive species screened out above. The potential for indirect impacts on the Douglas River Estuary / Lough Mahon Transition Waterbody in the absence of site specific mitigation measures is identified in the NIS. This waterbody is associated with the SPA. Stage II Assessment required.</p>

<p>Great Island Channel SAC (Site Code 001058) c. 4.5 km east of the proposed development. Discharge points: surface water sewer discharge 5.3 km and WWTP outfall n/a.</p>	
<p>Conservation Objectives and Qualifying Interests / Special Conservation Interests</p>	<p>Potential Impacts</p>
<p>CO - To maintain the favourable conservation condition of the Annex I habitat(s) for which the SAC has been selected.</p> <p>Qualifying Interests/Species of Conservation Interest: Mudflats and sandflats not covered by seawater at low tide [1140] and Atlantic salt meadows (<i>Glaucopuccinellietalia maritimae</i>) [1330].</p>	<p><u>Direct Effects:</u> No direct effects due to separation distance.</p> <p><u>Indirect Effects:</u> Potential for indirect effects from wastewater discharge; operational phase surface water discharge; disturbance / displacement; and invasive species screened out above. The potential for indirect impacts on the Douglas River Estuary / Lough Mahon Transition Waterbody in the absence of site specific mitigation measures is identified in the NIS.</p> <p>Given the location of the SAC within Cork Harbour in combination with the occurrence of tidal inundation onto this site, a precautionary approach is considered appropriate regarding the potential</p>

	relevance of construction related run off controls to this site. Stage II AA required.
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Evaluation of Effects

8.10.15. Section 4.2.1 of the NIS and the Construction Management Plan detail mitigation measures to be employed during the construction phase of the proposed development aimed at avoiding significant adverse effects arising from construction related run off. The environmental controls listed in Section 4.2.1 include site specific mitigation measures are proposed to prevent silt laden and contaminated run off reaching the nearby Douglas River Estuary / Lough Mahon Transition Waterbody which is associated with Cork Harbour SPA and in a more indirect way with the Great Island Channel SAC. Specific measures are proposed to avoid sediment erosion and to control sediment run off (silt fencing and cut – off diversion drains). I would note that the NIS refers to the inclusion of Harris fencing on the northern boundary in error and this would appear to relate to the southern site boundary. This issue can be satisfactorily addressed by way of condition in the event that permission is granted. Specific measures are also proposed to control oil and fuel spills from construction plant and equipment and to prevent run off from concrete leaching. The NIS concludes that subject to the mitigation measures outlined any adverse effects on the Cork Harbour SPA (004030) and Great Island Channel SAC (001058) as a result of surface water run are not likely to occur. I consider that the proposed mitigation measures are clearly described, are reasonable, practical and enforceable. I am satisfied that the measures outlined fully address any potential impacts on the Cork Harbour SPA and Great Island Channel SAC arising from the proposed development and that this conclusion can be made on the basis of objective scientific information.

Cumulative and In-Combination Effects

8.10.16. I do not consider that there are any specific in-combination effects that arise from other plans or projects. The NIS considered the combined impacts of the overall development proposal on the applicant’s landholding. Given the negligible

contribution of the proposed development to wastewater discharge, I consider that any potential for in-combination effects on water quality in the Douglas River Estuary and Lough Mahon water body. Furthermore, other projects within the area which can influence water quality via rivers and other surface water features are also subject to AA. In this way in-combination impacts of plans or projects are avoided.

AA Conclusion:

8.10.17. The proposed development has been considered in light of the assessment requirements of Sections 177U and 177V of the Planning and Development Act 2000 as amended. Having carried out screening for Appropriate Assessment of the project, it was concluded that the likelihood of significant effect on the following sites could not be excluded:

- Cork Harbour SPA (004030)
- Great Island Channel SAC (001058)

Consequently, an Appropriate Assessment was required of the implications of the project on the qualifying features of those sites in light of their conservation objectives. Following an Appropriate Assessment, it has been ascertained that the proposed development, individually or in combination with other plans or projects would not adversely affect the integrity of the two European sites listed above, or any other European site, in view of the site's Conservation Objectives. This conclusion is based on a complete assessment of all aspects of the proposed project and there is no reasonable scientific doubt as to the absence of adverse effects. This is consistent with the findings of the submitted NIS.

9.0 Conclusion and Recommendation

- 9.1. The proposed development subject of this appeal comprises an integral component of a larger residential scheme drawn up for the applicant's landholding with a distinct design ethos and context. Whilst the differing land use zonings on the holding necessitated two separate applications, 1 via SHD directly to the Board and the 2nd by way of an application to the planning authority which is now subject of this appeal, the latter is inextricably linked to the former. The said SHD proposal has been refused permission on the grounds of prematurity with regard to establishing if there is a children's burial ground associated with the former use of the lands as a Mother and Baby Home and the implications of such for the delivery of the development as proposed.
- 9.2. I submit that to allow for the development without the requisite permission for the other three blocks would result in a haphazard form of development and would result in an isolated apartment block with no context in terms of its urban design and legibility. Without such context the proposal is considered to materially contravene the ZO12 Landscape Preservation zoning objective for the site.
- 9.3. I would also submit that the resolution of the above referenced legacy issues could also have ramifications in terms of the potential realisation of the design as proposed as a whole and consequent knock-on impacts in terms of development on the subject site.
- 9.4. I therefore recommend a refusal of permission for the above described development for the following reasons and considerations.

10.0 Reasons and Considerations

The majority of the site is located within an area zoned ZO12 Landscape Preservation Zone in the current Cork City Development Plan the objective for which is to preserve and enhance the special landscape and visual character of the area. There is a presumption against development within this zone, with development only open for consideration where it achieves the site specific objectives as set out in Chapter 10, Table 10.2. The proposed development comprising an eight storey apartment block (Block D) has been designed as part of a larger residential

development of 246 apartments and a creche in four blocks. Having regard to the refusal of permission by An Bord Pleanala under register reference ABP 308790-20 on the 25th day of May, 2021 for the 3 no. apartment blocks comprising of 179 no. apartments, creche and all associated site works which form part of the said larger development, it is considered that a grant of permission for the proposed development on its own by reason of its location, height and scale would result in a haphazard form of development that would result in an isolated apartment block in a protected landscape. The proposed development would, therefore, materially contravene the ZO12 Landscape Preservation zoning objective and the related SE4 site specific objectives for the site as set out in Table 10.2 and would be contrary to the proper planning and sustainable development of the area

Pauline Fitzpatrick

Senior Planning Inspector

July, 2021