



An  
Bord  
Pleanála

## Inspector's Report ABP-311488-21

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<b>Development</b>	Construction of 3 houses.
<b>Location</b>	88 & 89 Shandon Street, Cork.
<b>Planning Authority</b>	Cork City Council
<b>Planning Authority Reg. Ref.</b>	21/40339
<b>Applicant(s)</b>	Conclusive Developments Limited
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Refuse
<b>Type of Appeal</b>	First Party v. Refusal
<b>Appellant(s)</b>	Conclusive Developments Limited
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	13th April 2022
<b>Inspector</b>	Stephen Ward

## 1.0 Site Location and Description

- 1.1. The site is located along the western side of Shandon Street, on the north-western edge of Cork city centre, approximately 500 metres northwest of Patrick Street. It is predominantly a backland site to the rear of No.'s 87-89 Shandon Street, which comprise 3 to 4-storey terraced buildings with commercial uses at ground floor and associated storage space above. A narrow strip of the site provides a covered alleyway access onto Shandon Street to the south side of No. 87, below its upper floors. The alleyway is c. 2.5m wide and appears to be normally closed by a locked gate of metal sheeting.
- 1.2. The site is within the Shandon Architectural Conservation Area, within which Shandon Street is described in the CDP as a busy shopping street of mainly small narrow-fronted shops and pubs. The CDP states that the street divides the area into two distinct parts, with the western side being historically associated with the cattle trade.
- 1.3. The levels of the alleyway and central portion of the site rise gently to the west, but the western rear portion rises steeply by a height of c. 7 metres over a distance of c. 11 metres and is densely overgrown with vegetation. The site has a stated overall area of 578m<sup>2</sup>.
- 1.4. To the east, the site bounds onto the rear of No.'s 88 & 89, which are indicated to be within the ownership of the applicant. To the west is a Cork City Council yard, which is significantly elevated above the appeal site. The adjoining lands to the north are also elevated and comprise the rear gardens of semi-detached dwellings along Cattle Market Avenue, as well as a rear yard which serves commercial properties along Shandon Street. The northern boundary consists of a high wall with palisade fencing above. To the south of the site is a 4-storey derelict building at the rear of the site, as well as a commercial unit and apartments at No. 86 Shandon Street.

## 2.0 Proposed Development

- 2.1. The proposed development comprises the construction of a terrace of 3 no. 3-bedroom dwellings. Each unit has a floor area of 115m<sup>2</sup> and comprises 2 storeys with a habitable 3<sup>rd</sup> level roof space. The dwellings have a maximum height of c. 9

metres but have significant level differences with each floor level rising 1.5 metres in a stepped arrangement from east to west. External wall finishes include a mixture of dark brick and smooth render, while the roof finishes would consist of black flat concrete tiles.

- 2.2. Patio areas of 17m<sup>2</sup> are proposed to the front of each house and rear gardens are also proposed, ranging from 41m<sup>2</sup> to 50m<sup>2</sup>. The steep-sloping western end of the site is proposed as an inaccessible landscaped bank. It is stated that the alleyway will be subject to landscaping and lighting upgrades. It is proposed to connect to the existing public water services.

### 3.0 Planning Authority Decision

#### 3.1. Decision

By order dated 30<sup>th</sup> August 2021, Cork City Council (CCC) issued notification of the decision to refuse permission. The refusal reason is as follows:

*Having regard to the poor access, the restricted nature and configuration of the site, the proximity of the proposed development to the site boundaries and the pattern of development in the Architectural Conservation Area, the poor private and communal amenity space provision and lack of access to light for future residents, it is considered that the proposed development would provide a sub - standard and incongruous form of development on the site, and would result in a low level of residential amenity for prospective occupants and would, therefore, adversely impact on the residential amenities of future occupants. The proposed development would be contrary to the provisions of the Cork City Development Plan 2015 - 2021: Objective 16.9 Sustainable Residential Development and Paragraph 16. 59: Infill Housing, as well as Sustainable Residential Developments in Urban Areas: Guidelines for Planning Authorities 2009: Section 5.9 Infill residential development. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.*

## 3.2. Planning Authority Reports

### 3.2.1. Planner's Report

The Planner's Report and assessment forms the basis for the Planning Authority decision and can be summarised as follows:

- The proposal accords with the ZO3 zoning designation for 'Inner City Residential Neighbourhoods'.
- There are considerable concerns about the access arrangements which would involve the intensification of use of a poor-standard access and the planning authority has a history of resisting such proposals.
- Clarification would also be required on ownership of the laneway given that No. 87 is built over same.
- There are concerns about the backland nature of the proposal on a confined site within the ACA, which requires protection of its form and pattern of development. Therefore, whilst considering national policy to densify the city and the backland/infill nature of the site, favourable consideration is not warranted in this case.
- The proposal would result in a density of 5 units per hectare, which is low in terms of national and local policy and would not receive favourable consideration without extenuating circumstances.
- No variation of house type has been proposed and this would be preferable within any permitted scheme.
- Only 1 house is accessible, and the communal open space is not accessible.
- While the rear gardens comply with minimum space requirements, there are concerns about the height of the rear retaining wall (12.5m high) and overshadowing, overbearing impacts. There is also insufficient information regarding the gardens to the north and concerns that the proposed gardens would be overlooked by No. 89 Shandon Street.

- There are concerns about the design and layout of the houses, namely, the ventilation of WC's; the location of living areas to the north; the reliance on velux windows at 2<sup>nd</sup> floor level; and the poor outlook.
- No shadow study has been submitted, but it is likely that the structure to the south would affect the dwellings for much of the day.
- It is recommended to refuse permission, which was supported by reports from the Acting Senior Executive Planner and Senior Planner. This forms the basis of the CCC decision.

### 3.2.2. **Technical Reports**

Contributions: Outlines that financial contributions would be due in respect of the proposed development.

Environment: Requests further information on construction and waste management plans.

Archaeology: No objections subject to conditions.

Drainage: Requests further information in relation to proposals, attenuation measures, and connections.

### 3.3. **Prescribed Bodies**

Irish Water: No objections subject to conditions.

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

None.

## 4.0 **Planning History**

Relevant decisions for the appeal site and adjoining properties at 87-89 Shandon Street include the following:

**P.A. Reg. Ref: 03/27078**: Outline permission granted (November 2003) on the appeal site for the erection of 5 no. 3-storey townhouses.

**P.A. Reg. Ref: 03/26843:** Permission granted (May 2003) at 87 Shandon Street for change use of part of ground floor from store to retail use, construct rear stairs, convert first and second floors to separate apartments and sub-divide rear yard.

**P.A. Reg. Ref: 03/27240:** Outline permission granted (August 2003) at 88 Shandon Street to convert attic and upper floors to 3 no. apartments.

**P.A. Reg. Ref: 07/32624:** Permission granted (March 2009) on the appeal site (including 88-89 Shandon Street) for amalgamation and change of use from pub/funeral parlour to betting shop, 3 no. apartments, 3 no. townhouses and all associated works.

**P.A. Reg. Ref:13/35594:** Permission granted (October 2013) at 88 Shandon Street for material change of use from Public House to Funeral Home, including alterations to facade and construction of interconnecting doors to 89 Shandon Street.

## 5.0 Policy and Context

### 5.1. National Policy / Guidance

5.1.1 The **National Planning Framework (NPF)** is the Government's high-level strategic plan for shaping the future growth and development of the country to the year 2040. A key element of the NPF is a commitment towards 'compact growth', which focuses on a more efficient use of land and resources through reusing previously developed or under-utilised land and buildings. It contains a number of policy objectives that articulate the delivery of compact urban growth as follows:

- NPO 3 (b) aims to deliver at least 50% of all new homes targeted for the five cities within their existing built-up footprints;
- NPO 4 promotes attractive, well-designed liveable communities;
- NPO 6 aims to regenerate cities with increased housing and employment;
- NPO 11 outlines a presumption in favour of development in existing settlements, subject to appropriate planning standards
- NPO 13 promotes a shift towards performance criteria in terms of standards for building height and car parking

- NPO 27 promotes the integration of safe and convenient alternatives to the car in the design of communities, by promoting walking and cycling access
- NPO 33 prioritises new homes that support sustainable development at an appropriate scale relative to location
- NPO 35 aims to increase residential density in settlements through a range of measures including infill development and site-based regeneration

5.1.2 **Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (DoEHLG, 2009)**, hereafter referred to as ‘the Sustainable Residential Development Guidelines’, sets out the key planning principles which should guide the assessment of planning applications for development in urban areas. Section 1.9 recites general principles of sustainable development and residential design, including the need to prioritise walking, cycling and public transport over the use of cars, and to provide residents with quality of life in terms of amenity, safety and convenience. Section 5 includes ‘City and town centres’ as areas where increased densities should be encouraged and section 5.6 states that there should, in principle, be no upper limit on densities for such sites, subject to safeguards relating to design and layout. A design manual accompanies the guidelines which lays out 12 principles for urban residential design relating to context, connections, inclusivity, variety, efficacy, distinctiveness, layout, public realm, adaptability, privacy and amenity, parking and detailed design.

5.1.3 The guidance document ‘**Quality Housing for Sustainable Communities**’ (**DoEHLG, 2007**), identifies principles and criteria that are important in the design of housing and highlights specific design features, requirements and standards.

5.1.4 **Architectural Heritage Protection Guidelines for Planning Authorities**, hereafter referred to as the ‘Architectural Heritage Guidelines’, sets out detailed guidance to support planning authorities in their role to protect architectural heritage when a protected structure, a proposed protected structure or the exterior of a building within an ACA is the subject of development proposals. It also guides those carrying out works that would impact on such structures.

## 5.2. Development Plan

- 5.2.1 The majority of the site is zoned 'ZO 3 – Inner City Residential Neighbourhoods' in the Cork City Development Plan 2015-2021, the objective for which is *'To reinforce the residential character of inner city residential neighbourhoods, while supporting the provision and retention of local services, and civic and institutional functions.* Section 15.9 of the Plan states that the City Council is committed to protecting the established residential housing stock in these areas by restricting the development of incongruous development types and providing the range of local service provision required to ensure their attractiveness and vibrancy. Civic and institutional functions will also be facilitated where appropriate and new residential development to compliment the established areas will be supported (Chapter 13).
- 5.2.2 The alleyway portion of the site is within the 'ZO 2 – City Centre Commercial Core Area' where the objective is *'To support the retention and expansion of a wide range of commercial, cultural, leisure and residential uses in the commercial core area (apart from comparison retail uses)'*.
- 5.2.3 The Core Strategy for the city is to be achieved through interconnected strategic goals which include the following:
- 1 – Increase population and households to create a compact sustainable city
  - 2 – Aims for a higher quality of life and to make the city and attractive place to live
  - 4 – Aims to promote sustainable modes of transport and integration of land use and transportation
  - 5 - Aims to protect Cork's unique form and character
- 5.2.4 Chapter 5 deals with 'Transportation' and outlines the Strategic Transport Objectives, which are largely aimed at developing an integrated transport system with less reliance on private car travel.
- 5.2.5 Chapter 6 outlines the 'Residential Strategy', which aims to meet the needs of residents, future population targets and local requirements. It is based on the Joint Cork City and County Housing Strategy, as well as national policy aimed at the creation of compact sustainable cities. It encourages a suitable mix and density of housing, which should be consistent with the standards outlined in Chapters 7 (Inclusive Neighbourhoods) & 16 (Development Management).



5.2.6 The site is within the Shandon Architectural Conservation Area (ACA) and Volume 3 of the Plan sets out Specific Built Heritage Objectives. Chapter 9 of Volume 1 deals generally with 'Built Heritage and Archaeology' and relevant objectives can be summarised as follows:

9.5 – Aims to protect sites of established archaeological interest.

9.28 – Aims to protect the NIAH and other built heritage interest when considering proposals for development. Structures will be protected through addition to the RPS or ACAs, or other appropriate means.

9.29 – Seeks to preserve and enhance the designated ACAs.

9.32 – Development within ACAs should take account of negative impacts on features within the public realm; acceptable design, scale, materials and finishes; original materials and methods of construction should be retained; features of historic or architectural value should not be removed

5.2.7 Chapter 13 deals with the City Centre and Docklands' and outlines the strategy for the city centre as a 'Healthy Heart' for the Cork region. Objective 13.11 'City Centre Living' encourages residential development provided it does not prejudice the function of the centre as a place for mainly commercial activity and subject to suitable design quality, mix etc.

5.2.8 Chapter 16 outlines a range of qualitative and quantitative standards for developments. Part B (Urban Design) and Part C (Residential Development) set out a range of standards relating to design, layout, height, density, dwelling mix, aspect, amenity space etc. Section 16.59 supports suitable 'infill housing' proposals subject to compliance with relevant standards and appropriate design which respects and protects surrounding development. It states that, in certain limited circumstances, normal planning standards may be relaxed in the interests of developing vacant, derelict, or underutilised land. Part G deals with car & cycle parking requirements.

### 5.3. **Natural Heritage Designations**

The nearest designated Natura 2000 site is the Cork Harbour SPA, located c. 3.5km to the southeast.

#### 5.4. Environmental Impact Assessment - Preliminary Examination

- 5.4.1. With regard to EIA thresholds, Class (10)(b) of Schedule 5 Part 2 of the Planning and Development Regulations 2001 (as amended) provides that mandatory EIA is required for the following classes of development:
- Construction of more than 500 dwelling units,
  - Urban development which would involve an area greater than 2 ha in the case of a business district, 10 ha in the case of other parts of a built-up area and 20 ha elsewhere. (In this paragraph, “business district” means a district within a city or town in which the predominant land use is retail or commercial use.)
- 5.4.2. It is proposed to construct a residential development containing 3 dwelling units. Therefore, the number of dwellings proposed is well below the threshold of 500 dwelling units. The site has an overall area of c. 0.0578ha and is also therefore well below the applicable site area threshold for a ‘business district’.
- 5.4.3. The site is largely surrounded by small-scale commercial uses and some residential development. The introduction of a residential development will not have an adverse impact in environmental terms on surrounding land uses. It is acknowledged that the site is located within an Architectural Conservation Area. However, I am satisfied that the issues of archaeological and architectural heritage can be satisfactorily assessed through the normal planning process.
- 5.4.4. The proposed development is not likely to have a significant effect on any European Site (as outlined in Section 8.0 of this Report). There is no hydrological connection present such as would give rise to significant impact on nearby water courses (whether linked to any European site or other sensitive receptors).
- 5.4.5. The proposed development would not give rise to waste, pollution or nuisances that differ from that arising from other housing/mixed-use development in the area. It would not give rise to a risk of major accidents or risks to human health. The proposed development would use the public water and foul sewer services, upon which its effects would be minimal.
- 5.4.6. Having regard to the nature and scale of the proposed development and the location and nature of the subject site, together with the nature, extent, characteristics and likely duration of potential impacts, I conclude that the proposed development would not be likely to have significant effects on the environment and that, on preliminary

examination, an Environmental Impact Assessment Report (EIAR) or a determination in relation to the requirement for an EIAR was not necessary in this case (See Preliminary Examination EIAR Screening Form).

## 6.0 The Appeal

### 6.1. Grounds of Appeal

The decision of CCC to refuse permission has been appealed by the applicant. The grounds of appeal can be summarised as follows:

- The proposed access is more than adequate and would be greatly improved in painting, paving, lighting, and a new gate. Many attractive schemes are enhanced by an unusual or discovered access.
- The applicant would be happy to clarify any ownership concerns through a condition of any permission.
- The scheme proposes the best design and layout to maximise the site while being sensitive to the historic location in an ACA. The proposed development would be consistent with the pattern and character of the area, including varied access lanes off the main street. It maintains a 'townhouse' setting and a traditional building form.
- The rear gardens exceed private open space requirements. While the rear areas have restricted sunlight, this would be typical of inner urban areas. The south-facing patios and stepped nature of the dwellings should also be considered. The Development Plan also recognises the need for allowances to be made for such sites and it is submitted that the proposal exceeds all private open space requirements.
- The stepped approach complies with section 3.1.2.5 of Part M of the Technical Guidance Documents with regard to accessibility.
- The proximity of the development to the funeral home is consistent with infill/backland development and would not result in nuisance for the existing or proposed developments.

- The building along the southern boundary does not run the full length of the boundary and only directly opposes one house. The enjoyment of the building is in the eye of the beholder. A site visit would confirm its lack of impact on light to the appeal site and it is likely to be demolished for redevelopment in the future.
- A shadow study could have been requested and the applicant would have been happy to provide it.
- Density concerns have not considered site conditions and usable space.
- The internal layouts of the dwellings have been designed to maximise space, circulation, and light.
- The proposal meets the requirements set out in section 16.59 of the CDP and section 5.9 of Sustainable Residential Development in Urban Areas: Guidelines for Planning Authorities (2009). It fulfils a housing need in an active neighbourhood and provides a high quality of housing on an unused inner urban site without detracting from adjoining properties or the character of the area.
- The planning authority has failed to assist in facilitating this type of backland development. Pre-planning discussions alluded to a recommendation for dwellings in lieu of apartments; the applicant was not given the chance to address concerns through further information; the site was not visited by the area planner; and the planning authority has failed to consider that the applicant was prepared to offer the entire development to CCC.
- The planning authority has negatively and improperly assessed the application and has not given appropriate consideration to addressing issues through further information or conditions.
- Planning permission was previously granted for a similar proposal under similar development plan guidance.

## 6.2. Planning Authority Response

None.

### 6.3. Observations

None.

## 7.0 Assessment

7.1. Having inspected the site and examined the application details and all other documentation on file, and having regard to relevant local/national policies and guidance, I consider that the main issues in this appeal are as follows:

- The principle and quantum of development
- Visual Amenity and Built Heritage
- Standard of residential development proposed
- Impacts on adjoining properties
- Access

### 7.2 The principle and quantum of development

7.2.1. The proposal involves the construction of a residential development on lands zoned 'ZO 3', the objective for which includes the reinforcement of the residential character of inner-city residential neighbourhoods. Section 15.9 confirms that new residential development will be supported where it complements established areas. I also acknowledge that the alleyway is within the 'ZO 2' commercial core area, but this zoning objective also supports the expansion of residential uses. Accordingly, I consider that the proposal for residential development would, in principle, be consistent with zoning for the site.

7.2.2. Consistent with national policy and guidance regarding the promotion of brownfield/infill development, the Development Plan also seeks to encourage the development of underutilised lands in appropriate locations. The site comprises an underutilised and overgrown plot to the rear of Shandon Street and, as such, I consider that the development of the site should, in principle, be supported at this convenient inner-city location.

7.2.3. The planning authority has raised concerns about the insufficient density of the proposed development based on a calculation of 5 units per hectare. However, it should be noted that this has been incorrectly calculated based on a site area of 5,780m<sup>2</sup>, whereas the actual area is 578m<sup>2</sup>. Therefore, I calculate that the 3 houses on a stated site area of 0.0578 hectares would equate to a density of c. 52 units per hectare, albeit that this density is proposed at a limited scale. Section 16.41 of the Development Plan states that density in central and inner suburban areas will normally be higher than 75 dwellings per hectare responding to the nature of their context and is more likely to be controlled by plot ratio and other planning and design considerations.

7.2.4. The proposed gross floor area of 345m<sup>2</sup> equates to a plot ratio of c. 0.6, which is below the indicative Development Plan range for 'inner suburban' areas (1.0 – 1.5) and the city centre (1.5 - 2.5). However, section 16.16 of the CDP states that plot ratio is secondary to other built form and planning considerations.

7.2.5. In terms of national policy and guidance, the Sustainable Residential Development Guidelines support higher densities in appropriate locations. For 'Inner Suburban / infill' development, section 5.9 of the Guidelines does not place a specific figure on density, stating that:

*'In residential areas whose character is established by their density or architectural form, a balance has to be struck between the reasonable protection of established character and the need to provide residential infill'.*

7.2.6. Section 5.6 of the Guidelines states that, in order to maximise inner city population growth, there should be no upper limit on the number of dwellings that may be provided within any city centre site, subject to design standards and safeguards. Section 5.7 outlines that the redevelopment of city-centre brownfield lands with higher densities should be promoted, as should the potential for car-free developments. Section 5.8 also recommends that increased densities should be promoted within 500 metres walking distance of a bus stop, or within 1km of a rail stop/station (minimum 50 units per hectare, with highest densities at rail/bus stops).

7.2.7. I consider that the site location is within a transitional area between the city centre and the inner suburban area. Local and national policy is clear on promoting higher density in both such locations. It is located less than a 500m walk from bus stops on

Cathedral Road and the core city centre, and is accessible to a wide range of employment, commercial and community facilities. Accordingly, I consider that the location is suitable for higher densities in accordance with the provisions of the Sustainable Residential Development Guidelines.

7.2.8. The proposed density and plot ratio is lower than the indicative standards of the Development Plan. And while no specific density ranges are quoted in the Sustainable Residential Development Guidelines, I would feel that a density of 52 units per hectare is at the lower end of the scale for this inner-city location. However, I would accept the appellant's argument regarding the site-specific conditions. The site is extremely limited in size and a significant portion of the site rises dramatically to the rear, rendering it largely undevelopable. The surrounding boundaries and buildings are also of significant height, meaning that the site is largely enclosed on all four sides.

7.2.9. In conclusion, I consider that residential development would be in accordance with the CDP zoning and other local/national policies aimed at promoting compact infill development in the inner-city. And while the proposed density may be considered low, local and national policies accept that density provisions need to be implemented in context. In this regard, I would accept that there are significant constraints on the site which hinder its development potential. Accordingly, I have no objection to the principle of residential development on the site. It is an extremely restricted plot, and it would be preferable if it could be developed in conjunction with adjoining lands to the south, which may facilitate higher density. However, as a standalone site, the proposed density of 52 units per hectare is perhaps reflective of what is reasonably achievable. The suitability of the proposal will be assessed further in the following sections.

### **7.3 Visual Amenity and Built Heritage**

7.3.1. As previously outlined, the site is located to the rear of the Shandon Street terrace and is enclosed on all sides by boundaries and buildings of significant height. It is, therefore, effectively concealed from the surrounding public realm.

7.3.2. I acknowledge the location of the site within the Shandon ACA. The Development Plan characterises the area as being compact and built-up, with a diverse range of

evolving activity/development that still retains its historic pattern of streets, lanes and steps. It states that land to the west of Shandon Street were historically associated with the cattle trade. In terms of building typology, it states that the dense network of streets, lanes, archways and steps contain numerous styles of domestic architecture as well as important monumental historic buildings. Among the 'issues' identified for the ACA is the relatively high transient population and associated car parking problems for local residents. It also highlights the number of prominent buildings on Shandon Street in a poor state of repair or dereliction.

7.3.3. I note that there are no Protected Structures in the vicinity of the site. No.'s 88 & 89 Shandon Street are included on the NIAH and are both rated as 'regional' importance. However, they are not included as proposed Protected Structures under the Draft CDP 2022-2028.

7.3.4. The planning authority reports highlight the need to protect the architectural form and pattern of development within the ACA. While I acknowledge the varied and historic street pattern in the area, I consider that the enduring pattern of development of development is defined by Shandon Street (to the east), Cattle Market Avenue (to the north), Old Market Place (to the west), and Blarney Street (to the south). These streets continue to define the block surrounding the appeal site. My review of historic maps shows that development within that block has evolved significantly and organically, and included comprehensive, dense backland development, including the appeal site. In fact, the OSI Historic 25" mapping (dating from the late 19<sup>th</sup> and early 20<sup>th</sup> century) appears to show small groups of townhouses centrally located within the block. Some of these appear to be accessed from narrow laneways off Shandon Street, including the subject laneway between no.'s 86 and 87.

Accordingly, I would have no objection in principle on grounds of historic form and development pattern alone. The traditional development pattern is somewhat reflected in the current proposal (i.e. a backland site of townhouses accessed by a narrow laneway). Again however, I do consider that the proposal would be more suitable if included as part of a co-ordinated plan for adjoining lands.

7.3.5. The design of the proposed development is based on a terrace of townhouses in a stepped arrangement. The form of the houses is relatively simple, and the massing of the terrace is broken down by the significant level differences between each unit. The stepped arrangement is necessitated by the site levels, and I note that this is a



recognised historic feature of the ACA. The terrace maintains a traditional form and rhythm through the use of narrow plots with a vertical emphasis and high-pitched roofs. The building facades would introduce a contemporary appearance through the use of dark brick finishes and irregular openings.

7.3.6. I acknowledge the location of the site to the rear of 88 & 89 Shandon Street, both of which are rated as 'regional' importance in the NIAH. However, neither building offers any architectural significance to the rear, and I do not consider that there would be any adverse impact on their heritage setting. Otherwise, the proposed development is mainly bounded by higher ground/boundaries to the north and west, which do not present any particular sensitivity. The derelict building to the south is clearly of historic vintage but is in an advanced stage of dereliction.

7.3.7. Having regard to the above, and despite the location of the site within an ACA, I consider that this is a concealed and enclosed site which does not directly interface with features of significant built heritage interest. It is not prominent or indeed visible from the public realm. And having considered the historic form and pattern of development at this location, I consider that the proposed development is generally reflective of that character, albeit that the site would be more appropriately considered as part of a larger, co-ordinated proposal. Nonetheless, given the limited scale and visibility of the proposal, I do not consider that it would seriously detract from the visual amenity of the area or the built heritage value of surrounding development and the wider Shandon ACA.

#### **7.4 Standard of residential development proposed**

##### Mix of Units

7.4.1 I acknowledge that CDP policy encourages a range of house types. Section 16.43 highlights the importance of dwellings of 3/3+ bedrooms in achieving balanced communities and providing flexibility. The appeal site is within Zone 1, where it is accepted that the predominant format is expected to be apartment/duplex schemes, but where houses are also deemed appropriate within historic townscapes. It is the long-term objective that half of units in Zones 1 & 2 would be 3+ bedroom units, but a medium-term target of 'minimum' 35% is included in Table 16.4. For smaller 1-2-bed units, the indicative targets are 'maximum' proportions.

7.4.2. Clearly a mix of units is more difficult to achieve in a small scheme like this. And given that policy supports larger dwellings and there is no maximum limit to 3-bed units in Zone 1, I do not have any objection to the mix of 3 no. 3-bed units. The proposed mix would compliment the existing housing stock in an area where the Development Plan has highlighted a predominance of smaller units which are often transitory in nature.

#### Floor areas and dimensions

7.4.3 The gross floor area for the houses (115m<sup>2</sup>) exceeds the target area as set out in Table 5.1 of '*Quality Housing for Sustainable Communities*' (i.e. 110m<sup>2</sup> for 3-bed/6-person/3-storey). The main 'living space' is severely restricted in terms of area (6m<sup>2</sup>) and width, although consideration should be given to the flexibility offered in the overall combined living/dining/kitchen area proposed. However, the aggregate living area (32m<sup>2</sup>) would still be less than the target area of 37m<sup>2</sup> and the width (3.7m) is marginally less than the required 3.8m. The aggregate bedroom area (43.2m<sup>2</sup>) comfortably exceeds the required 36m<sup>2</sup>. It is stated that 7m<sup>2</sup> of storage space is provided, which would appear to be concentrated in 2 spaces on the 2<sup>nd</sup> floor plan, whereas the guidelines recommend accessible space on each floor.

#### Internal layout, aspect, & accessibility

7.4.4 I note the planning authority's concerns about the WC ventilation, the north-facing living areas, and the rooflights to the 2<sup>nd</sup> floor bedroom. In my opinion, the ventilation and window arrangements are not uncommon or of significant concern and would be satisfactorily addressed by Building Regulations, as would all matters relating to accessibility. I also consider that the proposed positioning of the kitchen to the south is reasonable in principle. The kitchen would be used as an active space and would benefit much more from a southern aspect compared to the sedentary nature of the living/dining areas to the rear. Section 5.4.2 of '*Quality Housing for Sustainable Communities*' states that at least one main living room should be facing within 90° of due south, and I am satisfied that the kitchen area complies with this recommendation in principle. However, further assessment will be outlined in relation to overshadowing later in this section.

## Amenity Space

- 7.4.5 Each dwelling has a rear garden, with areas ranging from 41.65m<sup>2</sup> to 50.55m<sup>2</sup>. These would comfortably exceed the required 30m<sup>2</sup> for townhouses in 'inner urban areas' as per Table 16.7 of the CDP. The houses also include south-facing patio areas to the front with an area of 17m<sup>2</sup>.
- 7.4.6 While the proposal clearly exceeds the quantitative private amenity requirements, the quality of the spaces must also be considered. In this regard, I note that the rear gardens are of limited depth and difficult configuration, which would affect their quality and usability. They are also bounded by an extremely high rear boundary wall which extends to c. 12.5m in height, and the western side boundaries to the gardens would be c. 3.5m high as a result of the stepped levels. The patios to the front would bound onto the adjoining derelict site, with the patio for house no. 1 opposing a 9m high façade wall. The gardens are otherwise bounded by the 3 to 4-storey Shandon Street terrace to the east and the significant rising ground to the west. Accordingly, I consider that the quality and amenity value of the private space is significantly compromised by the restricted and enclosed nature of the site and the overbearing impacts of surrounding buildings and boundaries.
- 7.4.7 The CDP (Table 16.6) outlines 'public open space' requirements for residential developments as 10% of the site area (consistent with the recommendations of the Sustainable Residential Development Guidelines). The steeply sloping portion to the west of the site will be graded and landscaped as an inaccessible space (area of c. 100m<sup>2</sup>). While this area would exceed the 10% requirement, it could not be considered 'public' space and it is not suitably accessible, viable or integrated in accordance with the criteria of section 16.61 of the CDP. Sections 16.63, 16.19 & 16.20 of the CDP outline that public open space may not be required in smaller residential developments, subject to sufficient provision of private and semi-private space. I also note that the Sustainable Residential Development Guidelines allow for a more flexible approach where sites are close to city centre facilities or public parks. However, as previously outlined, I consider that the quality of private space is substandard in this case. Furthermore, I note that the CDP highlights the limited provision of public open space in the wider Shandon area.

## Outlook and Light

- 7.4.8 I have previously outlined the enclosed nature of the site and the overbearing impacts of surrounding development on the private amenity spaces. I consider that this would also affect the outlook from within the proposed dwellings. In particular, house no. 1 would be at the lowest level and would be in close proximity to high walls/facades to the north and south, which would have an overbearing impact and would adversely impact on the amenity standards of the property. Overbearing impacts would be somewhat reduced for the other properties, although they would still be largely enclosed and facing unattractive boundaries and/or derelict land.
- 7.4.9 The planning authority has raised concerns about overshadowing of the internal and external spaces of the proposed dwellings and the absence of a shadow study. In response, the applicant contends that this could have been addressed through further information. However, no such shadow/light assessment has been submitted with the appeal.
- 7.4.10 The Development Plan highlights the importance of sunlight and daylight in the assessment of development proposals. However, no particular light standards are quoted, and no reference is made to 'Site Layout Planning for Daylight and Sunlight, A guide to good practice (Building Research Establishment (BRE) Report, 2011)', which is generally used as the industry standard and is referenced in the Sustainable Residential Development Guidelines. I would highlight that the BRE guidelines allow for flexibility in their application, stating in paragraph 1.6 that '*Although it gives numerical guidelines, these should be interpreted flexibly since natural lighting is only one of many factors in site layout design*'. In the absence of a report from the applicant, it is not possible to carry out a detailed assessment of daylight and sunlight standards for the proposed development. However, I propose to address the fundamental principles of the BRE Guide in as much as is possible.
- 7.4.11 Section 2.1 of the Guide deals with 'light from the sky' for new development, which is largely calculated based on the angle of obstruction from opposing development. It is quantified as the vertical sky component (VSC), which is a measure of the amount of sky visible from a given point (usually the centre of a window) within a structure. Based on the application details and particularly section drawing C-C, I estimate that the angle of obstruction for the south-facing kitchen window in house no. 1 would be

53°, while that for the north-facing living/dining windows would be 65°. The BRE Guide states that an obstruction angle greater than 45° leaves it very difficult to achieve adequate daylight unless very large windows are used (which is not the case for the kitchen), while an angle more than 65° leaves it often impossible to achieve reasonable daylight even if the whole wall is glazed (which is not the case to the rear).

- 7.4.12 Based on the above, I would have serious concerns that adequate daylight levels would not be achievable for house no. 1. And while obstruction levels may be reduced for the other houses on higher ground, they would still experience significant obstruction from the high wall/ground to the north and west.
- 7.4.13 Section 3.1 of the Guide deals with sunlight for new development. It states that a dwelling will appear reasonably sunlit where at least one main window wall faces within 90° of due south and the centre of at least one window to a main living room can receive 25% of annual probable sunlight hours (APSH), including at least 5% of APSH between 21 September and 21 March.
- 7.4.14 The proposed dwellings include one main (kitchen) window facing within 90° of due south, while the remainder (to the rear) largely face north. The application has not included a APSH calculation. However, having regard to the enclosed nature of the site and the proximity of the proposed dwellings to significant obstructions to the east, south, and west, I would have serious reservations as to whether the proposed dwellings would comply with APSH standards.
- 7.4.15 Section 3.3 of the BRE Guide states that gardens and open spaces would be adequately sunlit if at least half of the space receives at least 2 hours of sunshine on 21<sup>st</sup> March. Again, no assessment has been submitted with the application. However, having regard to the north-facing aspect of the main gardens, together with the enclosed nature of the site and the proximity of the proposed spaces to significant existing and proposed obstructions to the east, south, and west, I would have serious reservations as to whether the proposed gardens would comply with the BRE recommendations.

#### Waste Management

- 7.4.16 The application states that refuse storage can be provided in designated outdoor space as indicated on the site layout plan. This would appear to refer to the patio

areas to the front of the dwellings. However, given the significant level differences on site and the stepped access to houses, I do not consider this arrangement to be convenient, accessible, or appropriate. Waste would be better managed in a designated communal area at the lower level of the site.

#### Conclusion on residential amenity standards

7.4.17 Having regard to the above, I consider that the proposed development has serious deficiencies in respect of residential standards. These include the restricted internal living areas and the substandard outlook from same; the absence of usable communal open space; the substandard quality of private amenity space in terms of configuration and its overbearing enclosure; the restricted daylight and sunlight for internal and external spaces; and the absence of suitable waste management facilities. Cumulatively, I consider that these factors would result in a substandard level of residential amenity for the prospective occupants, which would not comply with the requirements for infill development as outlined in section 16.59 of the CDP. And while I acknowledge local/national policy aimed at promoting compact residential development, I consider that this must be viewed in the wider aim to make the urban area a more attractive place to live, which would not be achieved with the proposed standard of development.

### **7.5 Impacts on adjoining properties**

7.5.1 The site is bound by a CCC maintenance yard to the west at a much higher level above the proposed dwellings. The dwellings and commercial properties to the north (along Cattle Market Avenue) would also be significantly above the proposed dwellings. Accordingly, I am satisfied that there is no potential for the proposed development to adversely impact on the amenities of these properties by reason of overlooking, overshadowing, or otherwise.

7.5.2 To the east of the site is the rear of the Shandon Street terrace no.'s 87-89. While these properties have had the benefit of various previous permissions for upper floor residential uses, my site visit confirmed that there is no current residential use, and the main use appears to be commercial storage. In any case, the proposed development does not include east-facing windows and I am satisfied that any significant additional overshadowing is unlikely given the higher level of existing development to the west of the appeal site (i.e. the CCC yard).

7.5.3 The property to the south is derelict at present and would not be affected by the proposed development. However, in terms of future development potential, I would consider that this site and the appeal site would benefit significantly from a co-ordinated approach to this restricted backland area.

## 7.6 Access

7.6.1 No car-parking or vehicular access is included within the proposed development. In this regard, I am conscious of NPO13 of the NPF which supports a performance-driven approach towards land use, transportation, and car-parking. The CDP also contains 'maximum' parking standards in order to constrain trip generation and promote 'green' modes of transport. It states that a maximum of 1 space should be provided in zone 1 for 3+-bed dwellings.

7.6.2 I consider that this inner-city site is comfortably within walking distance of the city centre core, is within close proximity to local bus stops, and is within reasonable distance of the main bus and train stations. Accordingly, I would support the principle of 'car-free' development at this location.

7.6.3 With regard to bicycle parking, the CDP states that facilities should be sheltered and conveniently and securely located. For 'standard apartments', Table 16.9 outlines that 1 space should be provided per unit in city centre and inner urban areas. No particular standard is quoted for houses or townhouses, which is perhaps a reflection of the rarity of such dwellings in central locations. However, given the nature of the current proposal and the absence of car-parking, I do consider cycle parking to be appropriate. And while houses would typically have ample opportunity for bicycle storage, I consider that the proposed scheme is restricted by its limited accessibility due to the site levels and steps. Similar to the matter of waste storage, I consider that cycle facilities would be better managed in a designated communal area at the lower level of the site.

7.6.4 The planning authority has raised considerable concern about the proposed access arrangements via the alleyway. The concerns relate to its width and length; the intensification of use; the absence of adequate lighting; ownership issues; and the history of resisting similar proposals.

- 7.6.5 I do not believe that there are any substantive grounds for ownership queries. The matter has not been raised by a 3<sup>rd</sup> party and the presence of existing development above the laneway is not necessarily an indication of separate ownership. I am satisfied that the applicant has provided sufficient legal interest for the purpose of the planning application and decision. In any case, any such dispute would be a matter for resolution between the relevant parties, having regard to the provisions of s. 34(13) of the Planning and Development Act 2000 (as amended).
- 7.6.6 However, I would share the planning authority concerns about the quality of the access. And while the appeal states that the access would be greatly improved through painting, paving, lighting and a new gate, no details of any such proposals have been submitted. I would not have an objection to such an access in principle, and I would accept that its current state could be improved. However, my main concern is in relation to its apparent shared, active use.
- 7.6.7 On the day of my site inspection, I noted that the lane has several access openings to/from the adjoining properties either side (no.'s 86 & 87). It also functions as a storage area for a significant number of bins and other haphazard waste items and appears to be used as something of an outdoor space for residents/employees of the adjoining properties. Therefore, along with the need for significant upgrade works, and notwithstanding that I am not questioning the ownership of the laneway, I have significant concerns regarding the ongoing management of this access and its compatibility with residential use. In order to favourably consider its use, I consider that detailed clarification would be required on the nature and extent of existing and ongoing access to the lane, and proposals would be required to satisfactorily resolve alternative access and storage requirements for adjoining properties. In the absence of this, I consider that this constitutes a substandard, unattractive, and unsafe access proposal, which would seriously detract from the quality and residential amenity standards of the proposed scheme.

## 7.7 Other Issues

- 7.7.1. The CCC 'Drainage Report' requested further information in relation to surface water attenuation and discharge proposals, as well as proposals for connection to Irish Water services. However, the Irish Water report on file has confirmed that there is no objection, and I am satisfied that this could be dealt with condition. And while I



acknowledge the absence of surface water details, I do not propose to address the matter any further in light of the other substantive concerns.

- 7.7.2 I note the location of the site within the Zone of Archaeological Potential for the historic city of Cork. Consistent with the CCC Archaeologist's report, I am satisfied that this could be addressed by condition in the event of a grant of permission.

## **8.0 Appropriate Assessment**

- 8.1. The nearest Natura 2000 site is Cork Harbour SPA, located c. 3.5km to the southeast. The site is not, therefore, located within or adjoining any Natura 2000 Sites, and there are no direct pathways between the site and the Natura 2000 network. The site is a typical inner urban brownfield site which does not contain any suitable habitat that might attract ex-situ impacts.
- 8.2. I am aware that there are potential indirect connections to the Natura 2000 site within Cork Harbour via watercourses, groundwater discharge, and the wider drainage network, including surface water and wastewater discharges. However, the existence of these potential pathways does not necessarily mean that potential significant impacts will arise.
- 8.3. There are no surface watercourses in the immediate vicinity of the site that would provide a pathway to the Natura 2000 network. I note that surface water proposals have not been clarified but I am satisfied that the matter could be appropriately managed with the application of best practice standards. Irish Water has confirmed that a wastewater connection would be available subject to conditions, and I am satisfied that there is suitable capacity in the Lough Mahon waters to rapidly mix and assimilate any potential pollutants. Therefore, having regard to the limited scale of the development and the associated discharges; the dilution capacity of the surrounding water bodies; and the significant distance between the appeal site and Natura 2000 sites; I am satisfied that there is no possibility that the additional loading resulting from the development will result in significant effects on European sites.
- 8.4. The development is limited in scale, and I am satisfied that any excavation or ground disturbance would not be likely to impact on the quality of groundwater. Furthermore, there is a significant separation distance between the appeal site and the nearest

Natura 2000 sites, which would provide significant dilution capacity in the unlikely event of any such impacts on groundwater quality.

- 8.5. No mitigation measures are relied upon for this Appropriate Assessment screening. Having regard to the above preliminary examination, I am satisfied that no Appropriate Assessment issues arise, and I do not consider that the proposed development, either individually or in combination with other plans or projects, would be likely to have a significant effect on a European site. Accordingly, a Stage 2 Appropriate Assessment is not required.

## 9.0 Recommendation

Having regard to the above, I recommend that permission be refused based on the following reasons and considerations.

## 10.0 Reasons and Considerations

Having regard to the restricted size and enclosed nature of the subject site, it is considered that the proposed development would represent uncoordinated piecemeal backland development. Furthermore, having regard to:

- a) the substandard quality of communal and private open space;
- b) the restricted size of internal living areas and their substandard outlook within enclosed and overbearing surroundings;
- c) the obstructions to daylight and sunlight to the proposed internal living and external amenity spaces;
- d) the substandard proposals for cycle parking and waste management facilities;  
and
- e) the substandard quality of the proposed site access arrangements,

it is considered that the proposed development would provide a substandard form of development for future occupiers in terms of residential amenity, would give rise to a poor standard of development, and would, therefore, be contrary to the proper planning and sustainable development of the area.

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Stephen Ward  
Senior Planning Inspector  
25th April 2022