



An
Bord
Pleanála

Inspector's Report

ABP-314948-22

Development	Permission for 100+ residential units and all associated works
Location	Lotabeg , Tivoli , Cork
Planning Authority	Cork City Council
Planning Authority Reg. Ref.	2241317
Applicant(s)	Rebel Abú Limited
Type of Application	Permission
Planning Authority Decision	Refuse
Type of Appeal	First Party
Appellant(s)	Rebel Abú Limited
Observer(s)	Peter & Julie Roberts
Date of Site Inspection	06/04/2023
Inspector	Gillian Kane

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1.0 Site Location and Description

- 1.1.1. The subject site of 3.8ha is located on the north side of Cork City, an area known as Tivoli. The subject site, which is currently inaccessible from a public road is in agricultural use. The site has a heavy tree line along all boundaries, with no visibility into the site from the surrounding road network.
- 1.1.2. The site slopes steeply from north to south (approx. drop of 15m), with the high point of the site referred to as Tivoli Ridge. To the immediate south of the site, is a large detached Protected Structure, a dwelling called Lotabeg House. To the immediate east of the site, the steeply sloping Burkes Hill leads northwards to a sports grounds, one off housing and agricultural land. Lands to the west of the site have been developed in the form of a residential estate Ashmount.

2.0 Proposed Development

- 2.1. On the 5th August 2022 permission was sought for a residential development 101 no. residential units comprising:
- 8 no. two-bed dwellings semi-detached dwellings
 - 26 no. three-bed semi-detached dwellings
 - 12 no. four-bed semi-detached dwellings
 - and 10 no. duplex units with a two-bed apartment on the ground floor and a three-bed duplex on the upper floors.
- 2.1.1. The development includes 352 no. proposed car spaces on a site of 3.825ha.
- 2.1.2. The application was accompanied by a Design Statement, letter of consent from the landowners, pre-connection enquiry to Irish Water and a Transport Assessment.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. On the 29th September 2022, the Planning Authority issued a notification of their intention to REFUSE permission for the following reasons:
- 1 The proposed development is in an area where two zoning objectives apply: Z0 20 City Hinterland and Z0 17 Landscape Protection Zone as designated in the Cork City Development Plan 2022-2028. In addition, a large part of the site has an overlying "Area of High Landscape Value"

objective. The reasons for and aims of these land-use zonings and designations are detailed in chapter 6 and chapter 12 of the City Development Plan. The proposed development materially contravenes these objectives and would, therefore, be contrary to the proper planning and sustainable development of the area.

- 2 It has not been sufficiently demonstrated in this planning application that the proposed development will not cause significant harm to the intrinsic character of this area of High Landscape Value and to the primary landscape assets of the site, the visual amenity and setting of the landscape and surrounding properties; and to the ecological and habitat value of the landscape. The proposed development is contrary to Objective 6.13 of the Cork City Development Plan 2022 and is therefore contrary to the proper planning and sustainable development of the area.
- 3 Strategic Objective 9 of the Cork City Development Plan 2022 states the following: proposals for new development will follow a design-led approach with sustainable, high quality, climate resilient placemaking at its core. Development should have a positive contribution to its receiving environment delivered by innovative architectural, landscape and urban design, that respects the character of the neighborhood, creates a sense of place, and provides green spaces and community and cultural amenities commensurate with the nature and scale of the development. The proposed development fails to demonstrate adherence to Strategic Objective 9, on to the requirements for residential development, including the provision of childcare facilities, as set out in Chapter 11 of the City Development Plan 2022. The proposed development is therefore contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

- 3.2.1. **Environment Waste Management & Control:** No objection subject to 9 no. conditions.
- 3.2.2. **Urban Roads & Street Design:** Further Information needed regarding the development access junction (three items) and the internal estate road (six items).
- 3.2.3. **Housing & Community Directorate:** No objection subject to one condition.

- 3.2.4. **Parks Report:** The proposed development is completely at variance with the current zonings. Strongly recommend refusal.
- 3.2.5. **Drainage Report:** Further information required. Applicant has proposed a stormwater connection to a storm sewer that does not exist.
- 3.2.6. **Traffic Regulation & Safety Report:** TTA required given size of site and proximity to national road. RSA needed due to close proximity of proposed access to existing entrances. Outline CTMP required. Liaison with Public Lighting Department required. Excessive car parking proposed. Bike storage should be proposed. Further Information recommended.
- 3.2.7. **Contributions:** No objection subject to condition.
- 3.2.8. **Planning Report:** Site has three zoning objectives: ZO 20 City Hinterland, ZO17 Landscape Protection Zone and Area of High Landscape Value. Development not acceptable on zoning grounds with residential development on lands zoned Landscape Preservation Zone. Presumption against development in LPZ. Extent of tree removal is not clear. Strong tree / vegetative cover around the perimeter of the site. Number of planning concerns – visual impact, setting on a prominent ridge, gateway setting and surrounding landmark buildings. Insufficient detail submitted. Application requires: Landscape Assessment & Strategy, Visual Impact Assessment. Detailed Design Statement, Photographs & Photomontages and Ecological Report. Childcare facilities required but not proposed. Cross section through site to demonstrate impact on adjoining properties required. AA Screening Report required due to proximity to River Lee. Notes the recommendations for further information. Recommends refusal on three grounds.
- 3.2.9. **Acting SEP Report:** Agrees with the conclusion of the Planner. Proposed development materially contravenes the zoning objectives for the site as set out in the Cork City Development Plan 2022. Notwithstanding that substantive reason for refusal, the proposed development is considered to be of low quality and contrary to the proper planning and sustainable development of the area. Non-compliance with Childcare Facilities Guidelines. Application should be refused for three reasons.

3.3. **Prescribed Bodies**

- 3.3.1. **Health & Safety Authority:** The Authority does not advise against the granting of planning permission in the context of Major Accidents Hazards.

- 3.3.2. **Inland Fisheries Ireland:** IFI ask that Irish Water / Cork County Council signifies that there is sufficient capacity in existence so that it does not a) overload either hydraulically or organically existing treatment facilities b) result in polluting matter entering waters or c) cause or contribute to non-compliance with existing legislative requirements.
- 3.3.3. **TII:** TII requires the Planning Authority to abide by official policy in relation to development on/ affecting national roads as outlined in DoECLG Spatial Planning and National Roads Guidelines for Planning Authority 2021, subject to three conditions.
- 3.3.4. **Irish Water:** Further information required regarding the distribution network associated with the development, wastewater drainage design, calculations, layout, long sections and details. Survey of existing wastewater sewer required.

3.4. **Third Party Observations**

- 3.4.1. A number of submissions to the Planning Authority raised the following issues:
- Development is contrary to land zoning objectives, ignoring new development plan,
 - Excessive traffic generated, will put pressure on existing road network, dangerous access, construction traffic,
 - Excessive height,
 - Impact on biodiversity, environmental risks,
 - Topography of the site,
 - More houses could be accommodated on the site.

4.0 **Relevant Planning History**

- 4.1.1. None on file.

5.0 **Policy Context**

5.1. **Project Ireland 2040: National Planning Framework**

- 5.1.1. National Strategic Outcome 1, Compact Growth, recognises the need to deliver a greater proportion of residential development within existing built-up areas. Activating these strategic areas and achieving effective density and consolidation, rather than sprawl of urban development, is a top priority.

5.1.2. Of relevance to the subject application are the following:

- **National Policy Objective 2a:** A target of half (50%) of future population and employment growth will be focused in the existing five cities and their suburbs
- **National Policy Objective 5:** Develop cities and towns of sufficient scale and quality to compete internationally and to be drivers of national and regional growth, investment and prosperity.

National Policy Objective 6: Regenerate and rejuvenate cities, towns and villages of all types and scale as environmental assets, that can accommodate changing roles and functions, increased residential population and employment activity and enhanced levels of amenity and design quality, in order to sustainably influence and support their surrounding area.

- **National Policy Objective 33:** Prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location.
- **National Policy Objective 35:** Increase residential density in settlements, through a range of measures including reductions in vacancy, re-use of existing buildings, infill development schemes, area or site-base regeneration and increased building heights.
- **National Policy Objective 27:** seeks to ensure the integration of safe and convenient alternatives to the car into the design of our communities, by prioritising walking and cycling accessibility to both existing and proposed developments and integrating physical activity facilities for all ages.
- **National Policy Objective 33:** seeks to prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location.

5.2. **Cork City Development Plan 2022 -2028**

5.2.1. In the Cork City Development Plan 2022, three zoning objectives apply to the subject site. The western most section of the site is zoned ZO17 Landscape Preservation Zone, the eastern larger section is zoned ZO20 City Hinterland with an overlying objective of "Area of High Landscape Value".

5.2.2. **ZO17 Landscape Preservation Zone** is an Open Space and Amenity Zoning, that has the stated objective “To preserve and enhance the special landscape and visual character of Landscape Preservation Zones”. The following zoning objectives apply:

ZO 17.1 These areas have been identified due to their sensitive landscape character and are protected due to their special amenity value, which derives from their distinct topography, tree cover, setting to historic structures or other landscape character.

ZO 17.2 Many of these sites have limited or no development potential due to their landscape character. There is a presumption against development within this zone, with development only open for consideration where it achieves the specific objectives set out in Chapter 6 Green and Blue Infrastructure, Open Space and Biodiversity.

5.2.3. **ZO20 City Hinterland** is also an Open Space and Amenity zone, with the stated objective “To protect and improve rural amenity and provide for the development of agriculture”. The following zoning objectives apply:

ZO 20.1 The primary objective of this zone is to preserve the character of the City Hinterland generally for use as agriculture, rural amenity, open space, recreational uses, green and blue infrastructure and to protect and enhance biodiversity. Rural-related business activities which have a demonstrated need for a rural location are also permissible. Any development associated with such uses should not compromise the specific function and character of the City Hinterland in the particular area.

ZO 20.3 The City Hinterland helps to maintain a clear distinction between urban areas and the countryside and avoid the harmful impacts of urban sprawl.

5.2.4. **Objective 6.13** refers to Areas of High Landscape Value: To conserve and enhance the character and visual amenity of Areas of High Landscape Value (AHLV) through the appropriate management of development, in order to retain the existing characteristics of the landscape, and its primary landscape assets. Development will be considered only where it safeguards to the value and sensitivity of the particular landscape. There will be a presumption against development where it causes significant harm or injury to the intrinsic character of the Area of High Landscape Value and its primary landscape assets, the visual amenity of the landscape; protected views; breaks the existing ridge silhouette; the character and setting of

buildings, structures and landmarks; and the ecological and habitat value of the landscape.

- 5.2.5. **Section 6.22** of the development plan referring to Areas of High Landscape Value, states that they display an intrinsic landscape character and a special amenity value. Development will be appropriate only where it results in a neutral / positive impact on the landscape. Although many AHLV consist of a built form and a strong landscape character, typically the built form is secondary to the landscape character.
- 5.2.6. **Section 6.23** New development in AHLV must respect the character and the primacy and dominance of the landscape. In particular, development on topographical assets such as steep sided slopes, escarpments and ridges is considered to be inappropriate due to the detrimental impact of site and excavation works on the landscape. There will be a presumption against development where it causes significant harm or injury to the intrinsic character of the Area of High Landscape Value.
- 5.2.7. **Section 6.24** The AHLV is an additional objective overlaying the land-use zoning objective. Development proposals must comply with the underlying land-use zoning objective. The key areas include the Montenotte / Tivoli Ridge; Shanakiel Ridge / Sunday's Well Ridge; Blackpool Valley; Lough Mahon/ Douglas Estuary; River Lee / Curragheen River.
- 5.2.8. Relevant to this application for residential development, the following may apply:
- **Chapter 2 Core Strategy** – acknowledges that Cork City Council has ambitious housing targets for brownfield sites, as well as seeking to optimise the supply of housing on greenfield sites.
 - Chapter 4 Transport and Mobility
 - Chapter 10 Key Growth Areas & Neighbourhood Development Sites
 - Chapter 11 Placemaking and Managing Development. Section 11.91 sets out qualitative standards for apartments.
- 5.2.9. Chapter 3 of the development plan refers to Delivering Homes and Communities. The map is not definitive but it appears that Figure 3.3 classifies the subject site and immediate area as “Outer Suburban”. Objective 3.1 states that the City Council will seek to utilise the Urban Towns, Hinterland Villages and City Neighbourhoods as

spatial units to develop sustainable neighbourhoods. Objective 3.4 states that at least 66% of all new homes should be provided within the existing footprint of Cork, with 33% of all new homes within brownfield sites.

5.3. Natural Heritage Designations

- 5.3.1. The site is not located within a designated Natura 2000 site. The relevant European sites are the Cork Harbour SPA (site code 004030) and the Great Island Channel cSAC (site code 001058).

5.4. EIA Screening

- 5.4.1. The scale of the proposed development is well under the thresholds set out by the Planning and Development Regulations 2000 (as amended) in Schedule 5, Part 2(10) dealing with urban developments (500 dwelling units; 400 space carpark; 2 hectares extent), and I do not consider that any characteristics or locational aspects (Schedule 7) apply. I conclude that the need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

- 6.1.1. An agent for the applicant has appealed the decision of the Planning Authority to refuse permission. The appeal submission is accompanied by a Transport Assessment, an Engineering Design Report and a number of drawings.
- 6.1.2. The grounds of the appeal can be summarised as follows:

Reason no. 1

- The application site is directly located to an existing high frequency public transport system.
- The various uses listed in the land use zoning are a general guide and not an exhaustive list. Land uses open for consideration may be acceptable where they would not have a detrimental impact on the primary land use of zoning objective and they would be consistent with the relevant objectives and criteria set out in the City Development Plan. Given the location of the application site, the development does not have any significant impact on the

surrounding environment. The dominant established use in the surrounding area is residential.

- There are often interdependencies between land use zones. Development in one zone may impact upon the existing environment in another zone, particularly near boundaries. In order to avoid abrupt transitions in scale densities and use, consideration must be given to existing development in adjoining zones particularly so for more environmentally sensitive zones. Special consideration must be given to scale, density, and use, to protect existing residential amenities. It is submitted that the Planning Authority have not done so.
- Situations may arise where the proper planning and sustainable development of an area may be best served by a development that contravenes the land use zoning objectives of the plan. Legislation provides a mechanism to allow development that materially contravenes objectives in a Development Plan. The proposed development should be assessed on its own merits and on compliance with the core strategy of the Development Plan.
- It is submitted that the proposed development does not materially contravene the objectives of the City Development Plan and is not contrary to the proper planning and sustainable development of the area.
- The subject site is located within the city consolidation and expansion area (Core Strategy), is in close proximity to Kent station public transport hub, suburban rail transport, the city northern distribution road and is serviced by local public bus transportation.
- The subject site is located north of the landscape protection zone. A small part of the site to the West is located within the landscape protection zone. The site is also located within the designated city hinterland and is bound by established residential development to the north and northwest.
- There is no woodland located on the majority of the site. The woodland to the South located on adjoining lands screens the application site from the main city access Road. The ridgeline of the woodland is shown on submitted images. The existing residential development to the north of the application site which is more elevated than the site is screened by virtue of the woodland Tivoli Ridge. Submitted image shows Tivoli Ridge c. +90m above sea level.

Reason no. 2

- It is acknowledged that the subject site is located in a zone which is visually important. It forms part of an attractive gateway entrance to the city, is home to significant cultural heritage assets in the form of protected structures and scheduled monuments, provides a setting to Tivoli Docks, lies adjacent to the Glashaboy River (Cork Harbour SPA), area provides local biodiversity benefit and forms part of the wider landscape setting from the southern side of the river Lee.
- Notwithstanding the above there is potential for development within and adjoining this zone. It is accepted that high sensitive landscapes are vulnerable landscapes but the ability to accommodate limited development pressure. If pressure for development exceeds the landscapes limitations, the character of the landscape may change.
- Considerable care has been taken to successfully locate the development proposal without it becoming a duly obtrusive. It is submitted that the sighting and design of the development is acceptable and does not impact the landscape character.
- The built formed massing and height of the development is appropriate for the surrounding context. The proposed development protects the landscape character and assets of the area.
- The design and layout which includes the retention of trees, preserves and enhances the special landscape and visual character of the zone. The subject site by virtue of its topography and extensive woodlands located to the South is well screened from the city gateway. The development does not have any significant adverse effects on the visual settings of the area. Given that the application site is largely devoid of woodland, there is no impact on the landscaped assets of the area.
- Image submitted showing the trees to the South of the application site being retained. These trees form the integral hilltop ridgeline. The proposed development allows for the retention of the existing trees within the application site.
- Aerial images submitted showing Tivoli Ridge, Ashmont Court, an existing orchard bounding the site adjoining the location of the entrance to the

application site. This orchard is bound by a natural stone wall circa. 3m in height. There is no interference with the woodland.

- It is submitted that due regard should be had to the design and layout of the proposed development. That mitigation measures have been provided to protect the visual settings of the area, that there are no significant impacts on the topography and woodlands of the area and therefore the proposed development does not materially contravene the City Development Plan.
- The subject site of c. 3.85ha slopes from East to West and North to South as indicated on the site survey. The proposed site entrance is bound by existing residential housing to East and South. Access to the site will be via the Ashmount public road. Significant additional planting has been proposed to complement and enhance the character and visual amenity of the area. This will ensure that the existing Ridgeline is protected.
- It is submitted that the design approach had due regard to the following:
 - Dwellings located parallel to the northern boundary, set back sufficiently to allow for the protection of trees along the boundary,
 - Dwellings to the east, southeast and southwest of the site are planned to allow the retention of the existing trees in the area,
 - No dwellings are proposed along the mid-South boundary to allow the retention of trees,
 - Proposed dwellings followed the natural topography of this site,
 - State roads are designed at a gradient of 1 to 20, having due regard to design principles and TGDM,
 - proposed three story dwellings have a top story located within the roof void. The height of the dwellings follow that of a traditional two-story dwelling, similar height to that of the adjoining residential development to the northeast,
 - The subject site is less elevated than that of the existing residential development in the northeast,
 - Open spaces in the center regions of the site allow for tree planting complementing the tree Ridgeline to the South. Refer to the landscape plan as submitted with the planning application.
- Aerial photographs of the application site and surrounding environs submitted.

Reason no. 3

- The proposed development embraces the characteristics of the existing built environment and implements the principles of the Urban Design Manual which forms the cornerstone of residential design layouts.
- The proposed development creates a mixed and inclusive environment. The proposed road and paths comply with Part M of the building regulations.
- The proposed layout of the scheme forms a coherent legible and navigable pattern of streets and blocks, engenders street based activity and provides a sense of safety, maximises active frontages and where appropriate wraps around inactive frontages.
- Active frontages provide a sense of safety, and where appropriate wraps arounds inactive frontages. This site layout orientation and design of individual dwellings and common spaces provides privacy for residents, optimizes opportunities for visual interest through a range of intermediate and long-range views, reduces noise from common areas and meets the challenges of a changing climate.
- The proposed development has due regard to Strategic Objective 9 of the Cork City Development Plan 2022. The proposed development will not cause significant harm or injury to the intrinsic character of the area. The primary landscape assets are duly protected.
- The proposed development has been designed in accordance with the City Development Plan, Quality Housing for Sustainable Communities, Sustainable Urban Housing Design Standards for New Apartments, Site Development Works for Housing, Design Manual for Urban Roads and Streets, Urban Design Manual and Best Practice Guide, and Cluid design guidelines.
- Key design aspirations underpinned the design process of this proposed development, namely the creation of a high-quality living environment, discouraging antisocial behavior, maximization of amenity and energy efficiency, elimination of barriers to accessibility for all users, promoting the concepts of enclosure, clear separation of public and private realm and good permeability. The proposed development of 111 no. residential units with appropriate car parking provisions is within the maximum permissible.

- The open space throughout the development is overlooked by proposed dwellings, providing passive surveillance and ensuring a safer more secure environment. The quantum of open space proposed ensures substantial passive open space distribution around the site and general central active open space.
- Visitor car parking is grouped in bays by tree planters for ease of recognition of individual parking spaces.
- Pedestrian linkages promote sustainable practices of walking and cycling with connectivity from the adjoining housing and its established amenities.
- Two car spaces are proposed per dwelling.
- Proposed site boundaries are appropriate to the circumstance and location.
- The proposed development of three-bed semidetached dwellings, three-bed semi-terraced dwellings, 4-bed semidetached dwellings, 2-bed semidetached dwellings, and two-bedroom apartments meet all aspects of the building regulations.
- Architectural expression is achieved through a harmonious curtilage treatment. Continuity of facade material gives an overall coherence and unity while still affording individual character.
- Space standards for all the dwellings are generally in accordance with the requirements set out in the quality housing for sustainable communities document. Natural daylight and sunlight have been maximised. The proposed dwellings provide good quality and functional family orientated residential units with adherence to Part M of the Building Regulations, storage spaces that meet the requirements set out in table 5.2 of the Quality Housing for Sustainable Communities document, low maintenance planting contributing to a well landscaped streetscape and private open space for each dwelling.
- Proposed finishes include brick natural stone coloured painted render fiber cement slate roofs that provide for the potential provision of solar panels, all leading to a coordinated elevation.
- The proposed dwellings have been designed to be energy efficient. All proposed dwellings achieve BER of A3 or better.
- Details of bin provision included.

- The proposed woodland walkway will be linked via pedestrian crossing at roadways. Existing trees and hedgerows along the boundaries which shall be retained and strengthened. Native shrub and tree buffer planting is proposed along the southern boundaries. It is proposed to provide a leafy canopy layer softening the proposed buildings and a base layer of ground cover planting to create low level seasonal interest and colour softening. Native tree species are to be planted within the public open space. Details of street trees, garden trees, ground cover planting, treatment of existing hedgerows and hard landscaping is provided. Ground cover planting treatment of existing hedgerows hard landscaping is provided.
- Details of the distribution of street space pedestrian crossings and benches are provided.
- Existing foul water services are readily available for connection. The proposed gravity foul sewers have been designed using micro-drainage which is an industry standard tool for design and assessment of gravity sewer drainage networks. In accordance with Irish water requirements for flows, a flow rate of 600 liters per day per dwelling was used as the single DWF per dwelling. The proposed foul drainage network has been designed to cater for the proposed 111 no. dwellings with each property having a separate wastewater connection, in accordance with the Irish water code of practice and standard details. Irish water have indicated capacity is readily available as indicated on the planning file within the City Council. An engineers report pertaining to the design of the foul network is submitted with this appeal. The public foul sewer located to the South of the application site was developed in the 1980s as part of the Cork drainage system.
- It is proposed to connect to the public water system located along Ashmount Court. Irish water have indicated that there is sufficient capacity to serve the development fully. An engineer's report referring to the design of the water service network is submitted with the appeal.
- Stormwater will be managed by piping to the public storm sewer located along the old Glanmire Rd. A bypass petrol interceptor will be included within the proposed storm drainage network. Storm water will be collected on site using a positive drainage system. The proposed development has been designed to

provide sufficient attenuation of surface water. This is a recognized part of the suite of SuDs systems.

- Engineering report referring to the design of the stormwater service network submitted with the appeal.
- Also submitted the appeal are details of public lighting flood risk assessment roads and access design and analysis.
- It is submitted that the national planning framework sets as a two tier approach to land zoning. Tier one comprises service zoned lands that are sufficiently serviced to accommodate new developments.
- It is submitted that the subject site has readily available services. Public funds were utilised to extend the city drainage system into the subject and adjoining sites.
- It is submitted that the subject application was lodged with the Planning Authority prior to the current plan being in place.
- It is submitted that the subject site is well screened from the City gateway located to the south. The proposed development allows for significant tree planting which will complement the landscape character of the area.
- The core strategy objectives of the City Development Plan is to deliver at least 50% of all new homes in the existing built up footprint of the city.
- The transport assessment attached to this appeal demonstrates an existing high frequency public transport system. The application site falls into the 15-minute city concept.
- The various uses listed in the primary object of each land use zoning are a general guide and not an exhaustive list.
- The Board is requested to examine the proposed appeal in detail.

6.2. Planning Authority Response

6.2.1. None on file.

6.3. Observations

6.3.1. Peter & Julie Roberts:

- The Board is referred to the objection submitted to the planning authority.
- The appellants submission that development of the site can be justified by compliance with each of the zoning objectives in the development plan could be used for numerous sites around the city. This would create an undesirable precedent.
- The development plan has zoned large areas of land as new residential neighbourhoods with infrastructure to support future development. The development plan has identified areas where housing should be concentrated for sustainability. This reason alone is sufficient to refuse permission for the proposed development.
- The subject site is zoned city hinterland Z020 and Public open Space ZO15. This reason alone is sufficient to refuse permission for the previous development. This effectively excludes any form of Housing.
- These areas are considered crucial to the well-being of local communities, the preservation of native habitats and visual amenity. The submission of the appellant that protection of existing trees justifies development which contravenes the objectives of the development plan is not accepted.
- It is submitted that the whole design approach is flawed and not in accordance with the current approach of the Design Manual for Quality Housing. The planning report states that the proposed development is of a low quality.
- Lands to the South of the subject site to contain many period properties including the Observers. The proposed development extends to the northern boundary of the Observers site. A 2m high wall is proposed around the perimeter of the proposed site including the full depth of the road on Burkes Hill. This is unacceptable, inappropriate and demonstrates that the design is of poor quality.
- It is submitted that the surrounding use of the site is not residential as stated by the Appellant. Only the northeast corner of the site has residential use. The remainder is woodland and agriculture.

- The subject application includes incomprehensive and inaccurate detail on infrastructure and the impact on existing amenities and traffic. The proposed development is speculative and not properly thought out. There is no public storm water sewer available to service the development.
- The Board is requested to refuse permission.

6.4. **Further Responses**

None on file.

7.0 **Assessment**

7.1.1. I have examined the file and the planning history, considered national and local policies and guidance, the submissions of all parties and inspected the site. I have assessed the proposed development and I am satisfied that the issues raised adequately identify the key potential impacts and I will address each in turn as follows:

- Principle of development
- Area of High Landscape Value
- Design
- Other
- Appropriate Assessment

7.2. **Principle of Development**

7.2.1. The Planning Authority's first reason for refusal refers to the two zoning objectives covering the subject site, in addition to the overarching objective referring to landscape value of the subject site. As noted in section 5.2 above, in the Cork City Development Plan 2022, three zoning objectives apply to the subject site. The western most section of the site is zoned ZO17 Landscape Preservation Zone, the eastern larger section is zoned ZO20 City Hinterland with an overlying objective of "Area of High Landscape Value".

7.2.2. Referring to the ZO20 city hinterland zoning objective the Development Plan refers to this as an open space and amenity zoning, one that has the stated objective to protect and improve rural amenity and provide for the development of agriculture.

- 7.2.3. The appellant submits that the subject site should be viewed as the transitional zone and submits that the Planning Authority has not given due consideration to this.
- 7.2.4. I consider that the Development Plan clearly states in section ZO20.3, that the City's hinterland zone helps to maintain a clear distinction between urban areas and the countryside and to avoid the harmful impacts of urban sprawl. The subject site is not a transitional zone, according to the Development Plan zoning map it is a buffer zone, creating a clear distinction between the residential use to the West and the agricultural uses to the east.
- 7.2.5. The appellant suggests that the land uses listed in the City Development Plan are not an exhaustive list. The appellant notes that land uses that are open for consideration may be acceptable where the Planning Authority is satisfied that certain criteria exist. Objective 020.1 states that the primary objective of this zone is to preserve the character of the City Hinterland generally for use as agriculture, rural amenity, open space, recreational uses, green and blue infrastructure and protected enhanced biodiversity. Section 020.2 of the Development Plan states that other uses open for consideration in the zone, include renewable energy tourism uses and facilities, garden centers and nurseries, cemeteries and community and cultural uses, market gardening and food production ancillary to agricultural uses. Residential use is not permissible use nor is it open for consideration in a ZO20 zone.
- 7.2.6. The appellant submits that current planning legislation provides a mechanism under which development that materially contravenes a Development Plan may be granted permission. The appellant requests the Board to consider the application on its own merits in accordance with the principle of proper planning and sustainable development and in accordance with the core strategy and development strategy of the city development plan. The appellant submits that the proposed development accords with the core strategy and therefore should be considered for assessment.
- 7.2.7. I consider the 2022 cork city development plan to be clear, residential development is not permitted in Z017 or Z020 zones. Residential development is not listed as a permissible use or as a use that is open for consideration. I am satisfied that the proposed development is a material contravention of the land use zoning objectives of the Cork City Development Plan 2022 - 2028.

7.2.8. The appellant submits that the subject application was lodged under the old Development Plan and some consideration should be given to this. The Board will note that the Cork City Development Plan 2022-2028 was adopted on the 10th June 2022 and took effect on the 8th August 2022. The subject application was submitted to the Planning Authority on the 5th August 2022.

7.3. Visual Impact

- 7.3.1. The subject site is located on lands elevated above the River Lee. The steeply sloping nature of the wider area and its location above and along a key distribution route (N8) into the city of Cork results in wide visibility. Currently, the boundaries of the site and the immediate environs are heavily wooded. The amenity value of the area is recognised in the development plan, with a zoning objective of Area of High Landscape Value (AHLV) on part of the site and Landscape Preservation Zone (LPZ) on the remainder of the site.
- 7.3.2. Section ZO17.1 of the Development Plan, referring to LPZ's, states that these zones are sensitive and require protection due to "their special amenity value, which derives from their distinct topography, tree cover, setting to historic structures or other landscape character". The subsequent section of the Development Plan ZO17.2 recognises that many of these sites have limited or no development potential due to their landscape character and therefore there is a presumption against development within this zone. Development will only be open for consideration where it achieves the specific objectives set out in Chapter 6 Green and Blue Infrastructure, Open Space and Biodiversity.
- 7.3.3. As regards the specific objectives set out in Chapter 6, Tables 6.5 and 6.6 list the Tivoli Ridge has having the following assets worthy of protection: topography, water / river corridor, tree canopy, ecology, visually important land, and being a gateway to the city. There are, however, no site-specific objectives for the Tivoli Ridge. Therefore, there is no development that would be open for consideration in the Tivoli Ridge LPZ. The proposed development of residential development which requires the removal of a large number of trees on the subject site and introduces residential development on open land, development that breaks the ridge line, is considered to be contrary to Objective 17 of the development plan.

- 7.3.4. Regarding the AHLV zoning, Objective 6.13 of the Development Plan seeks 'To conserve and enhance the character and visual amenity of Areas of High Landscape Value (AHLV) through the appropriate management of development, in order to retain the existing characteristics of the landscape, and its primary landscape assets. Again, the Development Plan states that there will be a presumption against development where it causes significant harm or injury to the intrinsic character of the Area of High Landscape Value and its primary landscape assets, the visual amenity of the landscape, protected views; breaks the existing ridge silhouette; the character and setting of buildings, structures and landmarks; and the ecological and habitat value of the landscape.
- 7.3.5. As with the LPZ zoning objective, the proposed development of residential properties on an open, heavily wooded site (albeit on the boundaries only), is not in accordance with the stated objective to protect the intrinsic landscape character and a special amenity value of the area. The proposed development is therefore considered to be contrary to Objective 6.13 of the City Development Plan.
- 7.3.6. The appellant submits that there is limited tree cover on the majority of the subject site, that the proposed development can be absorbed within the existing site and that the residential development to the north will screen the proposed dwellings. No photomontages or Visual Impact Assessment to demonstrate the visual impact of the proposed development have been submitted.

7.4. Design

- 7.4.1. The Planning Authority's third reason for refusal refers to Strategic Objective 9. This objective seeks to develop a compact, sustainable City by ensuring the creation of attractive, liveable, diverse, safe, secure and welcoming and well-designed urban places, communities and neighbourhoods that enjoy a high quality of life and well-being. To that end, the plan states that proposals for new development must follow a design-led approach with sustainable, high-quality, climate-resilient placemaking at its core. The Development Plan requires that development have a positive contribution to its receiving environment delivered by innovative architectural, landscape and urban design, that it respects the character of the neighbourhood, creates a sense of place, and provides green spaces and community and cultural amenities commensurate with the nature and scale of the development.

7.4.2. There are a number of concerns raised by the Planning Authority regarding, for example the lack of childcare facilities, inappropriate design finishes, and lack of adherence to the Urban Design Manual of 2009. I concur with these concerns, however I consider them to be issues that could be addressed were the principle of development acceptable on the site. Given the substantive reasons for refusal outlined above, it is considered that these issues should not form the basis of a reason for refusal.

7.5. Other

7.5.1. I note the concerns of the internal departments of the Planning Authority regarding storm water, waste water and water supply. I note that the appellants have submitted a drainage plan, a drainage catchment plan and an Engineering Design Report.

7.5.2. Given the substantive reasons for refusal outlined above and noting that the Planning Authority did not include these concerns within the reasons for refusal, I do not propose to consider these matters further.

7.6. Appropriate Assessment

7.6.1. The subject site is located approximately 1.0 kilometres west of Cork Harbour SPA (Site Code. 004030). Having regard to the nature and scale of the proposed development at the edge of an urban area, the lack of source-pathway-receptor route and the distance to the nearest European site, no Appropriate Assessment issues arise, and it is not considered that the proposed development would be likely to have a significant effect, individually, or in combination with other plans or projects, on a European site.

8.0 Recommendation

8.1. I recommend that permission be REFUSED for the followings reasons:

- 1 The proposed development is located on lands zoned ZO 17 Landscape Preservation Zone and ZO 20 City Hinterland, with a further overlying objective of "Area of High Landscape Value". The Cork City Development Plan 2022-2028 seeks to preserve and enhance the special landscape

and visual character of these open space and amenity zones and to preserve the character of the city hinterland for use as agriculture, rural amenity, open space, recreational uses, green and blue infrastructure and to protect and enhance biodiversity. To that end, residential development is neither permitted in principle nor open for consideration on the subject site. The proposed development, therefore, is considered to materially contravene the land use zoning objectives of the Cork City Development Plan 2022 - 2028.

- 2 The proposed development of residential development on a steeply sloping site with wide visibility and a degree of tree cover particularly on the southern boundary, to which an objective to protect the high landscape amenity applies, is considered contrary to Objective 6.13 of the Development Plan which seeks to conserve and enhance the character and visual amenity of such areas through the appropriate management of development. Further, the proposed development is contrary to Chapter 6 Green and Blue Infrastructure, Open Space and Biodiversity which states that there will be a presumption against development where it causes significant harm or injury to the intrinsic character of the Area of High Landscape Value. The proposed development is considered to be contrary to the proper planning and sustainable development of the area.

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

Gillian Kane
Senior Planning Inspector

17 November 2023