



An
Bord
Pleanála

Inspector's Report ABP-315718-23

Development	Demolition of existing cottage and construction of 13 houses.
Location	Site to east of Matthew Hill Road, at Lehanagh More, Cork
Planning Authority	Cork City Council
Planning Authority Reg. Ref.	2240797
Applicant(s)	Noreen Dunlea and Martina Hinds
Type of Application	Planning Permission
Planning Authority Decision	Refuse permission
Type of Appeal	First Party v Decision
Appellant(s)	Noreen Dunlea and Martina Hinds
Observer(s)	Pat & Shirley Feehely Martin Donnelly
Date of Site Inspection	19 th December 2023
Inspector	D. Aspell

1.0 Site Location and Description

- 1.1. The site is in Lehenagh More townland, Togher, Cork City. It comprises a field containing a shed and the remains of a dwelling. It is in an elevated position, located generally on the side of a hill. The site slopes down to the west and north, with the steepest part being along the western boundary with the road. There are dwellings adjacent to the north, south and east.
- 1.2. The area is predominantly residential, with extensive warehouse / light industrial uses in the wider area. These include a small industrial estate to the south, the access for which is located c.50 from the site.
- 1.3. The site is accessed from the L2455. The existing access is up a steep incline (ie. c.1:4). The remainder of the site generally slopes upward south-west to north-east.
- 1.4. The L2455 is a single lane Local Road. There are no footpaths outside the site. The roadside in the immediate area is comprised mainly of hedgerows. There is some public lighting outside the site. The L2455 runs generally uphill from the City past the site. I would characterise it as having a relatively steep incline. The site is located on the inside of a bend. There is an access to a small development of 4 no. dwellings directly across the road from the site.
- 1.5. The applicant gives the development address as east of Matthew Hill Road. There is variation in the road name within public records. Ordnance Survey and Land Registry indicate the name is Pouladuff Road. Commonly available commercial maps give Pouladuff Road or Lehenaghmore Road. Ordnance Survey gives the name 'Matthew Hill' to an area c.150m to the south however I see no record of a Matthew Hill Road in the area. Given this variation I am satisfied the site is sufficiently identifiable for the purposes of the appeal and meets the requirements of the Regulations, however in this report I refer to the adjacent road as the L2455.

2.0 Proposed Development

- 2.1. The proposal as revised at further information stage is summarised as: demolition of derelict cottage and shed; construction of 12 no. houses, new vehicular entrance from Matthew Hill Road, and associated development works.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. Cork City Council issued a notification to refuse permission for 1 no. reason:

The proposed vehicular access to the site would join a busy public road that is poorly aligned, at a point where sightlines are restricted in both directions resulting in inadequate sightlines provided at the entrances to the development. The proposed development's direct access, by reason of location and scale, would result in unacceptable traffic manoeuvres and consequent traffic hazard on Lehenaghmore Road. The proposed development would, therefore, endanger public safety by reason of traffic hazard and would be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

- 3.2.1. Planning report: The planning authority report in response to further information recommended refusal for one reason, generally as per the notification of decision. The report made the following points:

- Density - Does not meet minimum development plan targets. This did not arise at FI and cannot be revisited. Development plan targets will be applied apart from exceptional circumstances. Initial assessment referenced Circular NRUP 02/2021 and Sustainable Residential Development Guidelines and stated 30 dpha was acceptable having regard to the site characteristics;
- Housing mix – Does not accord with development plan. Issue was not raised at FI and cannot be revisited;
- Entrance, sightlines & road safety – Report notes refusal recommended by Traffic, Urban Design and Area Engineer. States the LRIS was at compulsory purchase order stage with ABP but completion timelines are uncertain;
- Car parking – No response from planning authority traffic section on this item;
- Public lighting - No response from planning authority traffic section on this;
- Pedestrian access - Acceptable subject to finish detail;

- Amenity – Proposal is c.3m above house to the north and 16m away. No significant negative impacts on adjoining residential amenity arise. Sunlight / daylight analysis is limited;
- Design – House type B1 landscaping and position on boundary are not satisfactory. Aspect and access to light for one window is unsatisfactory;
- Open space – Acceptable, however some concerns regarding amenity value of Housing Type B1 open space. Public open space is acceptable;
- Trees – Report notes no objection from parks section;
- Natural heritage - No objection from heritage section;
- Drainage – No response from drainage section or Irish Water;

The report concludes that in terms of design, layout and residential amenity there are outstanding matters to be addressed.

Other Technical Reports

3.2.2. Area Engineer: Report dated 20/12/23 summarised as follows:

- Endorses Traffic and Urban Roads & Street reports. Not satisfied adequate sightlines are achieved. Road safety audit raises concern with sightlines;
- Sightline triangle on northern side of entrance is on third party lands. Upkeep of hedges, fences etc in this zone is not guaranteed. Existing features are much higher than 1m;
- Applicant relies on the LRIS to remove vegetation. This cannot be assumed;
- On the southern side of the proposed entrance 24m of clear visibility is achievable currently. This is not acceptable;
- Refers to Irish Water in relation to foul and surface water;
- Recommends refusal. States the access would join a poorly aligned and busy road at a point where sightlines are restricted in both directions. Not satisfied proposal would not endanger public safety due to traffic hazard.

3.2.3. Traffic: Report dated 19/12/22 summarised as follows:

- Endorses the Urban Roads & Street Design Report. Road safety audit highlights inadequate sightlines. Applicant accepted the related recommendations but fails to demonstrate adequate sightlines;
- Recommends refusal on grounds of road safety. Sightlines are inadequate. Development would endanger public safety by reason of traffic hazard.

3.2.4. Urban Roads & Street Design: Report dated 19/12/22 in response to further information, summarised as follows:

- States applicant failed to demonstrate adequate sightlines of 49m in advance of LRIS. Applicant failed to demonstrate adequate sightlines in the vertical plane. Given the inappropriate speeds on the road and inadequate forward visibility, it is imperative drivers have adequate visibility to minimise conflict between drivers/cyclists/pedestrians accessing/egressing the development;
- Report recommends refusal, stating that having regard to the layout of the local road network, the proposed access, by reason of location and scale, would result in unacceptable traffic manoeuvres and traffic hazard and would endanger public safety and set an undesirable precedent.

3.2.5. Drainage: Report dated 28/02/22 requested further information summarised as follows:

- Available separation distances from domestic wastewater treatment systems and/or percolation areas to the development may not accord with the EPA Code of Practice. The applicant shall identify the location of domestic wastewater treatment systems and where the requirements of Table 6.2 of the Code are not achieved the applicant shall propose measures to address this;
- Applicant to survey storm water sewer and ensure no drainage infrastructure be located within lands to be acquired to facilitate the LRIS.

3.2.6. Parks: Report dated 03/01/23 stated no objection.

3.2.7. Housing: Report dated 14/12/2022 stated no objection subject to conditions.

3.3. Third Party Observations

- 3.3.1. During the planning application stage 5 no. observers made submissions to the planning authority, summarised as follows:

Pat & Shirley Feehely, of Ard Ross: Key points related to inaccuracies in the surveys; concerned with layout; overlooking; boundary tree retention; and omissions & inconsistencies in the application. Also states their septic tank & percolation area are not shown, the stated separation distances are incorrect, and the layout should be amended. Also states the proposed levels are unacceptable, and there is a 3m level change at the boundary, no details of retaining structures;

Martin Donnelly, of Ard Ross: Key point made related to dwelling numbers, misleading information; traffic, road safety & access; security & amenity; density; overlooking; views; boundaries; and bats. Also states their septic tank abuts the proposed gardens and will lead to problems with drainage from observer's site;

Gobnait Walsh and Frank Walsh, both of St. Ambrose, each submitted objections which were largely the same. The key points related to the site address; privacy; density; traffic and parking in the area; and road safety arising from the access.

T. & P. O'Neill: Key points related to overshadowing & natural light; privacy; overdevelopment and overbearance.

- 3.3.2. Correspondence on file from Michael Dunne is not related to this case.

3.3.3. Prescribed Bodies

Transport Infrastructure Ireland: No observation to make.

Irish Water: No objection subject to standard conditions.

Inland Fisheries Ireland: Irish Water to signify there is sewage treatment capacity.

Irish Aviation Authority: No observation to make.

Cork Airport: No observation to make.

4.0 Planning History

4.1. Subject site - None recorded.

4.2. Nearby sites:

Ref. ABP-314650-22: Lehenaghmore Road & Togher Road, Co. Cork. Cork City Council - Lehenaghmore Roads Improvement Scheme Acquisition Order No. 2 of 2022. Compulsory Acquisition Housing Act. **Currently with the Board.**

Lehenaghmore Road Improvement Scheme (LRIS): Section 179, Local Authority own development. Cork City Council. Part 8 approved 8th February 2021.

5.0 Policy Context

5.1. Development Plan

The site is zoned ZO.01 'Sustainable Residential Neighbourhoods' Cork City Development Plan 2022-2028.

Core Strategy, including Objective 2.32 "Housing Supply".

Section 3.26 'Residential Density'. The area is categorised as 'Outer Suburbs'. Objectives 3.3 "New Housing Supply", 3.5 "Residential Density" and 3.6 Housing Mix. Objective 3.5 states:

"Cork City Council will seek to:

(a). Promote compact urban growth by encouraging higher densities throughout Cork City according to the Cork City Density Strategy, Building Height and Tall Building Study and resultant standards set out in Chapter 11: Placemaking and Managing Development and Mapped Objectives; and

(b.) Ensure that urban density is achieved by development proposals providing for high quality sustainable residential development, ensure a balance between the protection of the established character of the surrounding area and existing residential amenities;

(c). Ensure that urban density is closely linked to creating successful neighbourhoods and ensuring that neighbourhoods are integrated and permeable to ensure short trips are possible to urban centres, local services and amenities;

(d). Ensuring high-quality architectural, urban and public realm design. Guidance is set out in Chapter 11: Placemaking and Managing Development.”

Objective 3.6 Housing Mix states:

“Cork City Council will seek to:

(a). Implement the provisions of the Joint Housing Strategy and HNDA as far as they relate to Cork City;

(b). Encourage the development of an appropriate mix of dwelling types to meet target residential densities, utilising a range of dwelling types and density typologies informed by best practice (as illustrated in “Density Done Well” in the Cork City Density Strategy, Building Height and Tall Building Strategy with combinations of houses, stacked units and apartments;

(c). Within all new residential developments it will be necessary to ensure an appropriate balance of housing tenure and dwelling size to sustain balanced and inclusive communities, including a balance of family-sized units and smaller dwellings tailored to suit the location (please refer to Chapter 11: Placemaking and Managing Development for those standards);

(d).

(e). Encourage the provision of housing for one and two person households in all neighbourhoods to meet the needs of all age groups, including providing for downsizing to release family housing units;

(f). ...”

Section “Roads”. Section 4.17 - 4.21 ‘Active Travel’ incl. Table 4.3 Walking and Cycling Improvements’ specifically ‘Lehanaghmore Road Improvement Scheme’. Sections 4.96 Local Mobility Hubs.

Objectives 9.1 “Irish Water” and 9.2 Waste Water.

Objective 11.2 Dwelling Size Mix states:

“All planning applications for residential developments or mixed-use developments comprising more than 50 dwellings will be required to comply with the target dwelling size mix specified in Tables 11.3-11.9, apart from in exceptional circumstances.

Applications for 10-50 dwellings will need to provide a dwelling size mix that benefits from the flexibility provided by the dwelling size target ranges provided for the respective sub-area. ...

Where a clear justification can be provided on the basis of market evidence that demand / need for a specific dwelling size is lower than the target then flexibility will be provided according to the ranges specified.”

Objectives 11.3 Housing Quality and Standards and 11.4 ‘Daylight, Sunlight and Overshadowing (DSO)’

Sections ‘Residential Development’ and ‘New Residential Development’, incl. section ‘Site Features and Context’ 11.68, ‘Residential Density’ 11.69 – 11.72, and Table 11.2 ‘Cork City Density and Building Height Standards’. Paragraph 11.72 states:

“Residential densities are set out in Table 11.2. Densities are expressed in terms of minimums and maximums for the constituent areas of the City. Density targets and prevailing character will be the key measures in determining site-specific density. In accordance with relevant s28 Guidelines (e.g. Sustainable Residential Development in Urban Areas) minimum density targets will be applied in the development of all sites, apart from in exceptional circumstances. Area-specific guidance will be prepared by Cork City Council to amplify the standards relevant to major development areas.”;

Sections 11.74 Residential Mix, 11.75 Design Quality, and 11.76 - 11.79 Dwelling Size Mix. Section 11.74 ‘Residential Mix’ states:

“Development proposals will need to ensure that they have an appropriate residential mix in terms of dwelling type, dwelling size, tenure, and specialist housing.”

Section 11.75 ‘Design Quality’ states:

“The mix of dwelling type will be determined in the main by the proposed density of development. There are three main types of dwelling types in developments: Houses; Apartments; and Stacked Homes with independent access to the street. Dwelling types will generally conform to the study referenced in Figure 11.4.”

Sections 11.76 – 11.78 ‘Dwelling Size Mix’ states:

“All developments will need to comply with dwelling size mix set out in Tables 11.3-11.9.

The HNDA has provided the basis for the dwelling size mix across Cork City and the identification of targets for the whole development plan period. Cork City Council has applied the household size distribution from the HNDA population modelling for the City to dwelling sizes to provide guidelines to be applied in the planning system to ensure that the forecast households will be able to find suitable accommodation in Cork City.

The HNDA forecasts a requirement for a mixed dwelling type product to meet the needs of the market, as 73% of new homes will need to be tailored around providing for households of between 1 and 3 people. When combined with location and density targets this will mean that new development will need to combine dwelling types across Cork City and its urban towns and hinterland villages.”

Table 11.8: City Suburbs Dwelling Size Mix for Housing Developments:

	<i>Min</i>	<i>Max</i>	<i>Target</i>
<i>Studios / PBSA (at LRT Stops / Urban Centre / HEI Campus Only)</i>	<i>0%</i>	<i>15%</i>	<i>10%</i>
<i>1 Bedroom</i>	<i>15%</i>	<i>25%</i>	<i>20%</i>
<i>2 Bedroom</i>	<i>25%</i>	<i>40%</i>	<i>34%</i>
<i>3 Bedroom</i>	<i>18%</i>	<i>38%</i>	<i>28%</i>
<i>4 Bedroom / Larger</i>	<i>5%</i>	<i>15%</i>	<i>8%</i>

Section “Transport and Mobility” incl. Sections 11.227 and 11.228.

Section “Water Supply and Wastewater” incl. 11.257 “Water Supply & Wastewater”.

5.2. National guidelines

Sustainable Residential Development and Compact Settlement Guidelines 2024.

EPA Code of Practice Domestic Waste Water Treatment Systems 2021.

Design Manual for Urban Roads & Streets (DMURS) 2019, incl. Sections 4.4.4-4.4.6

5.3. Natural Heritage Designations

Cork Harbour Special Protection Area (SPA 004030), 4.0km north-east.

Great Island Channel Special Area of Conservation (SAC 001058) 10.5km east.

5.4. Environmental Impact Assessment screening

- 5.4.1. Having regard to the nature and scale of the proposed development of 12 no. houses, the proposed ground levelling works, the location in a serviced area, and to the criteria set out in Schedule 7 of the Planning & Development Regulations 2001, as amended, I consider that there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required. (See Form 1 & 2 Appendix 1).

6.0 The Appeal

6.1. Grounds of Appeal

- 6.1.1. One first party appeal was received, prepared by the appellant's architect, and is summarised as follows:

- Sets out points relating to planning authority further information Items 6 and 7;
- In relation to Item 6, Appellant references a memo dated 07/03/2022 from Urban Roads & Street Design which it states referred to the prematurity of the application until the LRIS works are provided. Appeal states the memo indicates a strong bias not to consider a means of facilitating any development prior to the road improvement works. Appeal states that had the local authority required additional input regarding the junction design this could have been carried out by means of a compliance submission;
- Sets out background & timeline to application and LRIS. States LRIS delivery has been slightly delayed and that Compulsory Acquisition Housing application currently with ABP. States applicant will not have completed development in advance of the LRIS;

- Appeal indicates the proposed LRIS upgrade works were provided to the applicant by the City Council post decision (decision dated 11/02/2023). Appeal states the proposed development improves upon the proposed LRIS; the access is aligned with the LRIS levels, with appropriate landscaping, and set back to improve visibility and access/egress arrangements;
- Refers to the current road condition. States existing access is deficient and any works to the junction would be a significant safety improvement. Refers to LRIS works which require removal of all existing vegetation along the front of the site. States the LRIS works do not improve the existing situation from an access/egress perspective however with a tight turning radius from the Lehenaghmore road being proposed which requires a slow turning manoeuvre accessing the site when approaching from the north;
- References a meeting dated 30/01/2023 between appellant representatives and representatives of the City Council regarding the junction. Appeal states it was noted the junction design varies slightly from the Part 8 submission where the applicant proposes the site gradient taper down to the road level, whereas the Council proposed a retaining wall. Appeal states the City Council noted they would continue discussions to finalise an agreed design;
- Sets out further technical justification for sightlines. States two recommendations were made in the road safety audit and that adjustments were made to the junction design addressing the current road and LRIS:
- In relation to the first safety audit recommendation, appeal states sightlines were provided in accordance with “NRA: DMRD” requirements. States a 49m clear visibility splay is achievable to the north over the 1m high fence in the neighbouring property, however to the south there is c.24m of clear visibility to the nearside road edge due to vegetation on the roadside obstructing the sightline. States that with completion of the LRIS works a 49m clear visibility splay in both directions in the horizontal and vertical planes will be achieved as the approved footpaths and cycle lanes will omit the high vegetation currently present. States that sightlines are reduced to the south of the site should the development be delivered ahead of the delivery of the LRIS, however states intention to align construction with LRIS delivery;

- In relation to the second safety audit recommendation, appeal references extensive consideration to tie site levels with the LRIS with Part M compliant footpath and access ways. States proposal removes excessive levels changes from the roadway into the site to create a safer access / egress with a flat access / egress at the road edge which then gently slopes into the site;
- States proposal is appropriately scaled and designed, and is compliant with existing and proposed roads. States LRIS traffic calming will improve road safety, however will incorporate further traffic calming measures if required;
- Appeal includes a drawing by RPS for the City Council and NTA. It shows the LRIS proposed roadside boundary as it relates to the existing site access. It shows sections and elevations of proposed retaining walls;
- Requests Board overturn refusal, and apply appropriate conditions to align delivery of the development and the LRIS subject to agreement of final junction design between the local authority and the applicant.

6.2. Planning Authority Response

6.2.1. None received.

6.3. Observations

6.3.1. Two observations were received by the Board, summarised as follows:

6.3.2. Pat & Shirley Feehely, of Ard Ross, prepared by their consulting engineer:

- Septic tank - Applicant did not assess observer septic tank appropriately and did not identify the tank & percolation area location. City Council drainage department failed to assess the matter. No dwelling should be within 15m of the boundary near the tank & percolation area. It is not feasible to achieve this distance without a fundamental redesign. Proposed cut in levels at the boundary exacerbates the public health risk;
- Design layout and levels - The proposed boundary will damage trees & hedgerows. Dwellings will overlook and impact value of observer's home;
- The submitted information is inaccurate. Application should be invalidated.

6.3.3. Martin Donnelly, of Ard Ross:

- Access/Roads – Supports decision to refuse due to hazardous nature of access. Road provides access to South Link Road, city centre, Jack Lynch Tunnel, commuter traffic and alternative route to Cork Airport. There are severe issues with traffic volume, speeds, congestion and accidents on the road;
- Commercial & industrial uses in the area means a large number of heavy goods vehicles use the road, as well as buses. There is an access across the road. The site access is narrow and on a steep bend. There is a significant level difference between the site and road which makes it unsafe. The road is icy in winter. The LRIS may provide some mitigation but will not significantly lessen the access risk. The proposal will endanger public safety;
- Layout and boundaries – Level differences on the boundary with Ard Ross make the hedge unsafe. No information on how the hedge is to be maintained;
- Natural heritage – Some trees would have to be felled to facilitate the development. The site is used by bats but there is no mitigation;
- Reiterates points on density and proximity to septic tanks.

6.4. Further Responses

6.4.1. A response was received from the appellant's architect, summarised as follows:

- Relationship to septic tank - Current EPA Code of Practice is relevant. The appellant engineers reviewed the proposal in respect of separation requirements. The proposed dwellings are at least 4m from the site boundaries, and with a minimum 3m boundary separation on the observer's side ensures compliance with the 7m distance required from the dwelling. There is no evidence the planning authority drainage department failed to assess the matter. The referenced 15m required separation distance is unsubstantiated;
- Design layout & levels – Proposed levels do not significantly alter the existing levels on site. Part of the boundary treatment includes where necessary a suitable retaining structure to engineer details, a new fence, and hedgerow remediation to consolidate the existing. Response notes the boundary is a shared boundary and states all work would be solely in the applicant's site;

- Overlooking – The Observer’s home is oriented east-west. The northern side is a gable. The proposed dwellings are between 2.3m - 3.1m below that dwelling;
- Inaccuracies – The address is correct, accurate and sufficient for anyone to identify the site. The appellant will not interfere with trees outside the site.

7.0 Assessment

7.1. Having regard to the foregoing; having examined the application, appeal and planning authority reports; having inspected the areas within and adjacent the site; and having regard to relevant development plan policies and objectives, I consider the main issues in this appeal are those raised in the reason for refusal, as follows:

- Roads, traffic and access;
- Related matters.

Roads, traffic and access

- 7.2. The proposal is located on lands zoned ZO.01 ‘Sustainable Residential Neighbourhoods’. I consider the proposal is acceptable in principle.
- 7.3. I have considered how the proposed access submitted to the planning authority in response to further information would relate to the existing L2455 and to the L2455 subsequent to the approved LRIS approved Part 8 works.
- 7.4. In short, I do not consider the information submitted at application or appeal stages clearly demonstrates sufficient visibility would be achieved to enable safe egress from the site, specifically in relation to traffic coming from the north on the L2455. I consider this is the case in relation to the existing L2455 and the approved LRIS Part 8. This is primarily on account of planting and ground levels within the adjoining garden to the north, which is outside the control of the applicant or roads authority. I note the appellant indicates the proposed works to the party boundary and the works to the roadside boundary of the neighbouring site approved as part of the LRIS Part 8 would provide for sufficient visibility, however I do not consider this has been satisfactorily demonstrated. I set out details of my considerations below.
- 7.5. I note this matter was raised by the planning authority at further information stage, and highlighted in the Stage 1/2 Road Safety Audit submitted by the applicant. The

road safety audit stated the applicant had not demonstrated that a car egressing the site would have sufficient visibility to the north to safely egress the site. I am not satisfied this matter has been satisfactorily resolved by the appellant.

- 7.6. I also consider there is a lack of clarity in the submitted drawings, particularly regarding the relationship of the proposed access to planting and boundary treatments on third party lands, and to the access design as it relates to the design and layout of the approved LRIS.

Proposed access layout

- 7.7. The proposed access is c.8m further north and closer to a bend on the L2455 than the existing access. It comprises a bell mouth junction with footpaths either side. The access is shown connecting to the existing L2455, with the remainder of the development set back from the road to accommodate the LRIS works. Further information drawing 21277-MMS-ZZ-ST-DR-C-10016 P02 (prepared by MMOS consulting engineers) shows the associated visibility splay and includes an outline of the approved LRIS overlain the existing L2455. No revisions to this access or visibility splay were submitted with the appeal.
- 7.8. I note the site is in a 50km zone and that bus services operate on the road. The available Part 8 drawings indicate that post-LRIS the road will have the same speed limit past the site and will continue to accommodate bus services. I also note there are minimal road markings outside the site and that there is a vehicular access to the St. Ambrose residential development directly across the road.

Lehenaghmore Road Improvement Scheme (LRIS)

- 7.9. The LRIS Part 8 was approved by the City Council in February 2021. A compulsory acquisition order application for the LRIS is **with the Board** (Ref. ABP-314650-22).
- 7.10. The publicly available Part 8 drawings on the Council's website (ie. No. LRIS-LA-P05 Revision A) show the approved layout of the L2455 adjacent the subject site. The approved works include setting back the existing roadside boundaries of the subject site and neighbouring sites to the north and south, and construction of footpaths on both sides of the road and a cycle lane on the same side of the road as the subject site. The drawings show retaining structures running the length of the existing site boundary, with the exception of the existing access. Details of proposed roadside boundary treatments for the subject site or site to the north are not shown.

7.11. I note the drawings submitted with the appeal show details of how the LRIS would relate to the *existing* site only and not to the proposed site access layout. In addition, the drawings do not show details for the neighbouring site to the north, including details of boundary treatments. Again, no revisions to the proposed access layout or visibility splays were submitted with the appeal.

Sightlines

7.12. Regarding sightlines to the south, I am satisfied sufficient visibility would be available for the access as shown, and for both the existing road and the road after completion of the LRIS. I note commentary in this regard from the appellant and planning authority Area Engineer, including a requirement for visibility from the nearside road edge. However, having regard to the submitted information and to the vertical and horizontal alignment of the road to the south, I am satisfied the appellant has demonstrated sufficient visibility for vehicles egressing the site and on approach down the L2455, both as it exists today and in light of the approved LRIS, so as to enable safe road movements in the area.

7.13. Regarding sightlines to the north however, the submitted sightline cuts significantly across the garden of the neighbouring dwelling to the north, which is outside the applicant's control (Drw. 21277-MMS-ZZ-ST-DR-C-10016 P02 by MMOS engineers). I note the surrounding topography and the L2455 slope north-east down and away from the site. The roadside boundary of that site comprises a hedge and fence; the hedge is currently between c.1.4 - 1.8m tall measured from the road. Within the garden, there are two parallel hedgerows which currently measure c.1 - 1.5m in height, as well as small trees. The party boundary between that site and the subject site at this point comprises mature trees and further hedgerows which are generally located along an embankment. I consider these features would significantly obstruct the vertical and horizontal planes of the submitted visibility splays.

7.14. Regarding the party boundary at this point, the proposal submitted at further information stage (landscape plan Drw. PP372-01-01 prepared by Jane McCorkell Design) indicated the existing hedgerows were to be partly removed, and partly retained or replaced with native species. Limited boundary details were shown on the submitted engineering drawings, however, I consider the visibility splay submitted would largely cut across the proposed boundary treatment at this point. I

note that limited details of the ground or embankment levels along the party boundary at this point are provided. I consider there may be scope to address this specific matter by condition.

- 7.15. Regarding the neighbouring site to the north, the sightlines shown cut across this private garden to the side and front. I consider the significant tree and shrub planting in this area would significantly obstruct visibility in both the vertical and horizontal planes. This area is fully outside the applicant's control, and as such I consider the submitted information does not clearly demonstrate the required visibility to safely egress the site.
- 7.16. Regarding the appellant point that construction of the LRIS would entail removal and setting back of the roadside boundaries of the neighbouring site to the north, and that this would provide sufficient visibility from the proposed access, I have assessed the submitted layout and sightlines in this context.
- 7.17. Based on the available information I do not consider this has been clearly demonstrated. I acknowledge that much of the roadside boundary of the adjacent dwelling to the north would be removed as part of the LRIS works, however the approved Part 8 drawings indicate the majority of the garden, tree and shrub planting and ground levels within the site to the north, as described above, would be unaffected by the LRIS. I note the approved Part 8 drawings indicate that none of the garden area within that site would be acquired beyond that required specifically for the LRIS road, cycle lane and footpaths works (eg. Part 8 drawing LRIS-PLA-P02). In addition, the LRIS Part 8 drawings do not show the nature of roadside boundary treatments proposed for the site to the north as part of the LRIS works.
- 7.18. As such, I consider that sufficient driver visibility from the proposed access to the north would not be achieved even if further alterations to the party boundary were conditioned and/or the roadside boundary is removed as part of the LRIS works. This is primarily on account of trees and planting within the garden and the intervening ground levels which appear to be located within the horizontal and vertical planes of the submitted visibility splays. I am not satisfied sufficient visibility would be available through or over them. This area would remain in third party control. I also note this area is not currently proposed to come within the control of the roads authority as part of the approved LRIS works (Ref. ABP-314650-22 above).

- 7.19. Based on the foregoing, and having regard to the available information, in the absence of the LRIS works I estimate the proposed access would achieve in the region of 25% the required 49m visibility; with construction of the approved LRIS I estimate the proposed access would achieve in the region of only 50%.
- 7.20. For completeness I have also assessed the access layout submitted to the planning authority at application stage. Having reviewed the submitted details, I consider that it too suffers similar if worse deficiencies in terms of driver visibility compared to the access submitted at further information stage, and for the same reasons. Again, whilst a 49m visibility splay to the north is indicated (Drw. No. 21277-MMS-ZZ-ST-DR-C-10004-P01 prepared by MMOS consulting engineers), it is not clear that cars egressing the site would have sufficient visibility to the north through or over the existing planting, party boundary or roadside hedge in the neighbouring site, including along both the existing L2455 and in light of the approved LRIS Part 8.

Summary

- 7.21. Having regard to the vertical and horizontal alignment of the L2455 adjacent the site; the design and location of the proposed access; the nature of ground levels, planting and boundary treatments on lands outside the appellant and roads authority control to the north; I consider the appellant has not clearly demonstrated sufficient forward visibility or sight stopping distances as set out in DMURS for vehicles egressing the site in relation to nearside traffic approaching on the L2455 from the north. I consider this has not been clearly demonstrated for either the existing L2455 or in light of the approved Lehenaghmore Road Improvement Scheme Part 8.
- 7.22. I consider the proposed access as submitted would be significantly deficient in this regard. I note again the road is and will be frequently used by pedestrians, cyclists, buses, and heavy goods vehicles. I concur with the planning authority that the proposed access arrangements would likely result in unacceptable traffic manoeuvres which would endanger public safety by reason of traffic hazard on the public road. As such I consider the proposal should be refused.
- 7.23. I am not satisfied the above issues could be overcome by condition, as suggested by the appellant. This is on account of the limited information provided in relation to visibility over the site to the north, and that much of the land required to resolve this matter would remain outside the control of the applicant or roads authority.

Tie-in with Lehenaghmore Road Improvement Scheme

- 7.24. Minimal if any drawings clearly showing the proposed access as it would tie-in with the approved LRIS Part 8 have been submitted. Whilst I do not consider the proposal is premature having regard to delivery of the approved LRIS, I do not consider the appellant has clearly demonstrated the proposed access would tie in appropriately to both the existing L2455 and approved LRIS in terms of design and layout.
- 7.25. In this regard, the access submitted to the planning authority at further information stage is shown connecting to the existing L2455, with the LRIS alignment overlain this. The access submitted at initial application stage showed the access bell mouth set back from the road which would provide for the emerging LRIS whilst also providing a dwell space for vehicles. I consider the access layout submitted at application stage is preferable in this regard as it would tie in with both the existing L2455 and the approved LRIS Part 8 without further design changes being required. The revised access submitted at further information stage does not fully accord with the LRIS and would itself require further design alteration to successfully tie in with the LRIS. Based on the available information I am satisfied this specific matter could be resolved by condition.
- 7.26. However, in addition, the approved Part 8 drawings show retaining walls along the majority of the boundary of the subject site (eg. LRIS-LA-P05 Rev A). Drawings submitted with the appeal show the retaining walls would be c.2m in height. Conversely, the proposed layouts show the access and ground levels generally tapering down to meet the road rather than retaining walls.
- 7.27. The appeal refers to discussions between the appellant's representatives and the City Council regarding the subject site and indicates the potential for continuing discussions to finalise an agreed design. A final access design is not stated as being agreed. No further submissions or updates from the parties have been received. Regarding the LRIS timeline, the City Council website currently states the project is for construction contract tender in Q3/Q4 2024 and construction in Q1/Q2 2025.
- 7.28. I consider the submitted information does not clearly demonstrate an appropriate tie-in of the proposed development both with the existing L2455 and approved LRIS Part 8. I consider the access as proposed would conflict with the approved design of

the LRIS Part 8. All of the relevant matters in this regard cannot be resolved condition, and as such I consider the proposal should be refused in these regards.

Related matters

Matters raised in the course of the appeal: Septic tanks at No. 5 and 6 Ard Ross

- 7.29. Regarding proximity to neighbouring septic tanks, I note the points made in the observations and the appellant's response, including by their respective consultants. I note the points made in the planning authority area engineer and drainage reports.
- 7.30. The planning authority sought further information in this regard, and a letter from the applicant's consulting engineers was submitted in response. The response stated the current required distances for septic tanks, but not percolation areas, and assumed the distance of the neighbouring tanks but did not identify their locations. In response to further information the planning authority area engineer report did not address this issue, and no report was received from the drainage section.
- 7.31. I am not fully satisfied with the applicant's response in this regard or the assessment of the planning authority. In this regard I note that neither the applicant nor observers identified the location of the respective tanks and percolation areas.

No. 6 Ard Ross

- 7.32. In relation to No. 6 Ard Ross, having regard to my site visit and to aerial photography of the area, I am only satisfied as to the general location of the treatment system which is to the rear of No. 6 Ard Ross and the 'D' type units proposed. I estimate the tank itself is c.9m from the site boundary, however the location of the percolation area is unclear. The nearest proposed dwelling is c.5m from the boundary. Current EPA guidance indicates new septic tanks should be 7m from a neighbouring dwelling, and the infiltration area should be 10m from a neighbouring dwelling. I am conscious the prevailing topography slopes generally northward down toward the proposed dwellings, and the proposal includes a cut and lowering of ground levels by c.3m adjoining the boundary, with a retaining wall proposed at this point.
- 7.33. I am satisfied there is sufficient distance between the proposed dwellings and the existing septic tank, however the distance to the percolation area is unclear, as is the impact in this regard of the proposed change in ground levels along the boundary. Having regard to the foregoing, I consider that further information is required in this

regard to satisfy outstanding public health concerns, however, on balance I do not consider refusal of the entire development on these grounds is warranted.

No. 5 Ard Ross

- 7.34. In relation to No. 5 Ard Ross, the nearest proposed dwelling to the boundary at this point is c.7.5m. As with No. 6, from my site visit and from aerial photography I am only satisfied as to the general location of the referenced treatment system. I estimate the septic tank is c.8m from the site boundary, however, again the location of the percolation area is unclear. The tank is located generally east of the proposed dwelling and the prevailing topography of both sites here slopes down to the north. Given the relative location and arrangement of the proposal and No. 5 Ard Ross, and the topography of the sites, I am satisfied refusal on these grounds is not warranted.

Bats

- 7.35. I note the points made by observers, planning authority and appellant in relation to bats. No comment from the planning authority Biodiversity Officer was received
- 7.36. I have reviewed the submitted bat survey prepared by O'Donnell Environmental, including the statement of competence. Bat surveys of the site including site structures and trees were undertaken in the summer. No evidence of bat roosting was found. The existing structures on site were found to have low suitability for roosting. Trees on site were found to have negligible suitability for roosting at best. A low to moderate level of bat activity on-site was found and from a low diversity of species widespread in Ireland. Overall the report found the site to be of lower value / local importance for bats. Mitigation regarding lighting on the site was proposed.
- 7.37. Overall I am satisfied the proposal is acceptable in this regard subject to conditions.

Matters raised by the planning authority at application stage

Density – New Issue

- 7.38. Regarding density, the planning authority planner report stated the proposed density did not meet minimum development plan targets, but as these matters were not raised at further information stage it could not be revisited.
- 7.39. The proposed density is 29 dpha. The development plan target for outer suburban areas is 40-60 dpha. Development plan section 11.72 states that minimum density

targets will be applied to all sites apart from exceptional circumstances. I consider the proposed density **materially contravenes** the development plan.

- 7.40. The Compact Settlement Guidelines state that residential densities in the range of 40 to 80 dpha shall generally be applied at suburban locations in Cork. Section 3.2.5 states that as a general rule the minimum density shall be 35 dwellings per hectare. Section 3.2.1 states it may be necessary and appropriate in some exceptional circumstances to permit densities above or below the range set out in Section 3.3. There is no Specific Planning Policy Requirement in relation to density.
- 7.41. I note a number of the observation submitted to the Board and planning authority stated the proposed density was too high for the area.
- 7.42. To comply with the development plan minimum the number of dwellings proposed on the site would have to increase from 12 to 17 (that is, an over 40% increase). I note the number of dwellings proposed was reduced at further information stage. Having regard to the site shape and topography, and to the form, layout, orientation and proximity of neighbouring dwellings, I do not consider an increase of this scale is achievable without giving rise to significant detrimental impacts on the design, and on the amenity of existing and proposed dwellings particularly in relation to dwellings to the immediate north and south.
- 7.43. Having regard to development plan Section 11.72 and Section 3.2.1 of the Guidelines, I do not consider this case amounts to exceptional circumstances. This is primarily on account of the reasonably typical issues involved, that is, the site shape; the topography of Cork City; and the form, layout, orientation and proximity of neighbouring suburban dwellings. In this context, and having regard to the extent that the proposed density falls below the development plan stated minimum, I consider the density proposed materially contravenes the development plan, specifically Objective 3.5, paragraph 11.72, and Table 11.2 'Cork City Density and Building Height Standards'.
- 7.44. **Section 37(2)(a) of the Act** provides for the Board in determining an appeal to grant permission even if the proposed development contravenes materially the development plan. Section 37(2)(b) states that where a planning authority has decided to refuse permission on the grounds that a proposed development materially contravenes the development plan the Board may only grant permission in

accordance with paragraph 37(2)(a) in specific circumstances. Whilst Section 37(2) of the Act reads that subsection (b) only applies where a planning authority has decided to refuse permission on the grounds that a proposed development materially contravenes the development plan, a broader interpretation has been taken by the Courts. As such, whilst in the subject case the planning authority did not refuse permission on grounds of the development materially contravening the development plan, I consider that Section 37(2)(a) and (b) should be applied in this case.

7.45. In this context, I consider that criterion (ii) of subsection (b) is applicable – that “*there are conflicting objectives in the development plan or the objectives are not clearly stated, insofar as the proposed development is concerned*”. In this regard, I consider that the development plan objectives relating to housing quality and residential amenity, specifically Objectives 11.3 Housing Quality and Standards and 11.4 ‘Daylight, Sunlight and Overshadowing (DSO)’, conflict with the development plan Objective 3.5 and Table 11.2 ‘Cork City Density and Building Height Standards’ in relation to density targets, insofar as the proposed development is concerned. My main reasons and considerations in this regard are that strict application of the density targets as stated in the context of the site features and context including topography and shape of the site, and the form, layout, orientation and proximity of neighbouring suburban dwellings, would likely give rise to undesirable and significant detrimental impacts in terms of residential amenity which would conflict with Objectives 11.3 Housing Quality and Standards and 11.4 ‘Daylight, Sunlight and Overshadowing (DSO)’ and the land use zoning objective for the site.

7.46. In this context I am satisfied the form and nature of the residential development proposed is appropriate for the site and surrounding context. In this context, and having regard to the land use zoning objective for the site and the Core Strategy for the area, I concur with the planning authority that refusal on these grounds is not warranted.

Housing mix – New Issue

7.47. Regarding housing mix, the planning authority planner report stated the housing mix did not accord with the development plan, but as the matter was not raised at further information stage it could not be revisited.

- 7.48. The proposal comprises 2-, 3- and 4-bedroom detached, semi-detached and terraced dwellings. On-site social and affordable housing is proposed. The proposed mix was significantly altered at further information stage to reduce the number of 3-bed dwellings from ten to four, and increase the number of 2-beds from zero to two.
- 7.49. The development plan sets out a number of requirements in this regard. In line with Objective 3.6 'Housing Mix' I consider the proposal utilises a range of dwelling types; ensures an appropriate balance of housing tenure and dwelling size to sustain balanced and inclusive communities; and includes a balance of family-sized units and smaller dwellings tailored to suit the location. Conversely, as also required by Objective 3.6, it is not clear the proposal encourages the provision of housing for one and two person households to meet the needs of all age groups, including providing for downsizing to release family housing units. In addition, as per Objective 11.2, no justification is provided on the basis of market evidence that demand / need for a specific dwelling size is lower than the target ranges specified.
- 7.50. In addition, development plan Table 11.8 sets out a minimum, target and maximum housing mix range. I acknowledge the proposed mix does not fully match the mix set out in Table 11.8 and I note the proposed mix is weighted toward larger units. However, the proposal does comply with the threshold for studios; it is only one unit above each of the 2-bed and 3-bed units thresholds, and only two units above the threshold for 4-bed units.
- 7.51. As an aside I note development plan Objective 3.6 seeks to implement the 'Joint Housing Strategy 2022-2028' and 'Housing Need Demand Assessment'. In this regard Policy Objective PO1 of the Strategy is notably less specific as to the particular mix percentages required than development plan Table 11.8.
- 7.52. Overall, whilst I consider the proposal does not fully comply with development plan Objectives 3.6 and 11.2, and the dwelling mix set out in Table 11.8, I do not consider the proposal materially contravenes the plan in this regard. The main reasons are that based on the available information, I do not consider the location is appropriate for a significant proportion of single bedroom dwellings, and I consider the proposed mix is appropriate to the outer suburban location. In this regard I note the site is served by a local road; is not served by high-capacity public transport; is not proximate services and facilities; and the area is generally a low-density suburb. In

addition, I consider the relatively small number of dwellings proposed makes strict adherence to percentages more difficult.

- 7.53. As such I concur with the planning authority that the proposal does not warrant refusal in this regard.

Conclusion

- 7.54. I consider the appellant has not clearly demonstrated sufficient forward visibility or sight stopping distances for vehicles egressing the site in relation to nearside traffic travelling on the L2455 from the north. I consider this has not been clearly demonstrated for either the existing L2455 or in light of the approved Lehenaghmore Road Improvement Scheme Part 8. I consider the proposed access arrangements would be significantly deficient in this regard and would likely result in unacceptable traffic manoeuvres which would endanger public safety by reason of traffic hazard.
- 7.55. I also consider the submitted information does not clearly demonstrate an appropriate tie-in of the proposed access with the approved Lehenaghmore Road Improvement Scheme Part 8, including in relation to design and layout. As such I consider the proposed access would conflict significantly with the approved Road Improvement Scheme Part 8 in this regard.
- 7.56. I consider therefore the proposed access arrangements would be contrary to the proper planning and sustainable development of the area, and as such the proposed development should be refused in these regards.

8.0 Appropriate Assessment screening

- 8.1. I have considered the proposed development in light of the requirements of Section 177U of the Planning & Development Act 2000 as amended. The subject site is not located within or adjacent any European Site designated SAC or SPA. The closest European site, part of the Natura 2000 Network, is the Cork Harbour Special Protection Area (SPA 004030), located 4.0km north-east of the proposed development. The proposed development is located in a suburban area and comprises construction of 12 no. dwellings. No significant nature conservation concerns were raised as part of the planning appeal. Having considered the nature, scale and location of the development I am satisfied it can be eliminated from further

assessment as there is no conceivable risk to any European Site. The reason for this conclusion is the nature of the development and its location in a serviced suburban area, served by mains drainage, the distance to any European Sites, and the urban nature of intervening habitats. I conclude that on the basis of objective information the proposed development would not have a likely significant effect on any European Site(s) either alone or in combination with other plans or projects. Likely significant effects are excluded and therefore Appropriate Assessment Stage 2 under Section 177V of the Planning & Development Act 2000 as amended is not required.

9.0 Recommendation

9.1. I recommend permission be **Refused** for the reasons below.

10.0 Reasons and Considerations

Having regard to the nature and alignment of the adjacent road network along the L2455 Local Road, and to the design and layout of the proposed access, it is considered the proposed development does not demonstrate sufficient forward visibility or sight stopping distances for vehicles egressing the site in relation to the existing L2455 or the L2455 in light of the approved Lehenaghmore Road Improvement Scheme Part 8. It is considered that the proposed access arrangements would be significantly deficient in this regard and would likely result in unacceptable traffic manoeuvres which would endanger public safety by reason of traffic hazard on the public road. Further, an appropriate tie-in between the proposed development access and the approved Lehenaghmore Road Improvement Scheme has not been clearly demonstrated and as such the proposed access design would conflict with the design of the approved Part 8 Scheme in this regard. It is considered therefore that the proposed development access arrangements would 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.-

D. Aspell
Inspector
31st July 2024

APPENDIX 1

Form 1

EIA Pre-Screening [EIAR not submitted]

An Bord Pleanála Case Reference		315718-23	
Proposed Development Summary		Demolition of cottage and construction of 13 houses.	
Development Address		Site to east of Matthew Hill road, at Lehanagh More, Cork	
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings)			Yes X No No further action required
2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) and does it equal or exceed any relevant quantity, area or limit where specified for that class?			
Yes	X	Class.....	EIA Mandatory EIAR required
No			Proceed to Q.3
3. Is the proposed development of a class specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) but does not equal or exceed a relevant quantity, area or other limit specified [sub-threshold development]?			
		Threshold	Comment (if relevant)
No		N/A	No EIAR or Preliminary Examination required
Yes	X	Class/Threshold.....	Proceed to Q.4
4. Has Schedule 7A information been submitted?			
No	X	Preliminary Examination required	
Yes		Screening Determination required	

Inspector: _____

Date: __24th June 2024__

Form 2
EIA Preliminary Examination

An Bord Pleanála Case Reference	315718-23		
Development Summary	Demolition of cottage and construction of 13 houses.		
Examination			Yes / No / Uncertain
1. Is the size or nature of the proposed development exceptional in the context of the existing environment?			No
2. Will the development result in the production of any significant waste, or result in significant emissions or pollutants?			No
3. Is the proposed development located on, in, adjoining or have the potential to impact on an ecologically sensitive site or location*?			No
4. Does the proposed development have the potential to affect other significant environmental sensitivities in the area?			No
Comment (if relevant)			
Conclusion			
Based on a preliminary examination of the nature, size or location of the development, is there a real likelihood of significant effects on the environment **?			
There is no real likelihood of significant effects on the environment	EIAR not required	Yes	
There is significant and realistic doubt in regard to the likelihood of significant effects on the environment	Screening Determination required	No	
	Sch 7A information submitted?		No
There is a real likelihood of significant effects on the environment	EIAR is required (Issue notification)	No	

Inspector _____ **Date:** 24th June 2024 _____

DP/ADP _____ **Date:** _____

(only where EIAR/ Schedule 7A information is being sought)