



MATERIAL CONTRAVENTION STATEMENT

St Kevin's Strategic Housing Development (SHD)

at the former St. Kevin's Hospital and Grounds, Shanakiel, Cork



PREPARED FOR:

LAND DEVELOPMENT AGENCY,
ASHFORD HOUSE,
TARA STREET,
DUBLIN 2,
D02 VX67.

PREPARED BY:

TOM PHILLIPS + ASSOCIATES,
TOWN PLANNING CONSULTANTS,
80 HARCOURT STREET,
DUBLIN 2,
D02 F449.

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Introduction

The Land Development Agency intend to apply to An Bord Pleanála (the Board) for permission for a Strategic Housing Development with a total application site area of c. 5.7 ha, on lands located at the Former St. Kevin's Hospital and Grounds, Shanakiel, Cork (A Protected Structure, 'Our Lady's Hospital' RPS Ref. PS620). The development, with a total gross floor area of c 24,344 sq m, will provide 266 no. residential units, a crèche and office enterprise centre. The development will consist of 46 no. town houses (32 no. 3 bedroom units and 14 no. 4 bedroom units) arranged in 11 no. two storey blocks; 54 no. ground floor 2 bedroom duplex apartments and 36 no. 3 bedroom and 18 no. 4 bedroom duplex townhouses above arranged in 7 no. three storey blocks and 52 no. walk-up apartments (11 no. 1 bedroom apartments and 41 no. 2 bedroom apartments) arranged in 3 no. four storey blocks. The development will also include the stabilisation, conversion, renovation and internal reordering (including new structural frame and floors) of the former St. Kevin's Hospital building to provide 60 no. apartments (26 no. 1 bedroom and 34 no. 2 bedroom apartments) a 440 sq m crèche at ground floor level, with ancillary outdoor play area and the conversion of the 630 sq m former chapel building to provide a new Office Enterprise Centre. The proposed development will include 241 no. surface car parking spaces and 563 no. bicycle parking spaces.

The development will also consist of the demolition of 2,901 sq m of former hospital buildings and associated outbuildings (including the demolition of the 1,129 sq m former two storey St. Dymphna's Hospital block; 672 sqm of the rear toilet blocks and contemporary stair cores to the side and rear of the St. Kevin's Hospital building; the 220 sq m two storey former Doctors House; the 50 sq m one storey hospital mortuary building; 480 sq m of shed buildings to the rear of the Chapel; the 151 m retaining wall to the immediate south of the St. Kevin's Hospital building and the partial demolition of the existing 350 sq m link corridor structure, to be replaced with an integrated landscaped amenity area in the footprint of the original structure.) 2 no. new 228 sq m extensions with bridge access are to be provided to the rear of the St. Kevin's Hospital Building and 2 no. 31 sq m new glazed porch extensions to the south.

The development will also include the provision of a play area to the immediate east of St. Kevin's Hospital; private, communal and public open space (including all balconies and terraces at all levels); internal roads and pathways; pedestrian access points; hard and soft landscaping; boundary treatments including the repair of some existing boundary walls; the provision of new surface water and foul drainage pipes and any associated pipe diversion works; new retaining walls; a new internal access road; changes in level; services provision and related pipework; electric vehicle charging points; attenuation tanks; SUDS; signage; the upgrading of the existing access from Beechtree Avenue; public lighting and all site development and excavation works above and below ground.

Purpose of this Document

This document seeks to address the issue of Material Contravention of the *Cork City Development Plan 2015-2021* as required under SHD legislation. It should be noted that, notwithstanding the adoption of the *Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities* March 2018, and the *Urban Development and Building Heights – Guidelines for Planning Authorities* December 2018, it has been confirmed by both An Bord Pleanála and the Department of Housing, Planning and Local Government that these *Guidelines* do not supersede policies within statutory *Development Plans*, and therefore, until such time as a *Development Plan* is varied to align with the requirements of the *Guidelines*, a Material Contravention is still considered to have occurred. In this case, in our opinion, the Material Contravention of the Development Plan arises in respect of the provision of public open space within the proposed development.



Both issues are described in greater detail below together with the grounds by which the Board may grant permission for the subject proposal having regard to Section 37(2) of the *Planning and Development Act 2000* (as amended).

Site Context

The site, the Former St. Kevin's Hospital at Shanakiel Road, Cork City, Co. Cork, is bounded to the south by well-established residential developments along the Lee Road, to the west by Atkin's Hall Apartments, to north-west by a local road serving the Beechview housing estate and to the north-east by Ashboro housing estate.

The site is irregular in shape, extending north to south along a steep slope towards the River Lee. The overall site has an area of 5.7 ha, with c. 4.2 ha of this calculated as being developable. The site has historically been part of a wider institutional development, the Our Lady's Hospital complex. Due to the architectural quality of the main structure on site, the former St. Kevin's Asylum, is a listed building (RPS Ref. PS620). Currently, the site is abandoned and, due to a 2017 fire, the Protected Structure is in a serious state of disrepair.

The subject lands, which will accommodate a well-designed higher density residential development without giving rise to any adverse impacts on existing residential amenities.

Thus, it is considered that given the site's locational characteristics, residential development will inherently accord with National and Regional sustainable planning principles particularly in relation to the promotion of more compact and efficient forms of urban development in appropriate locations.

Statement in relation to Material Contravention of the Development Plan

Public Open Space

Table 16.2 of the *Cork City Development Plan 2015-2021* identifies a minimum 20% requirement for the provision of Public Open Space for '*Institutional Sites/Sites forming the setting to a Building of Significance*'. In our opinion, having regard to the former Institutional nature of the subject site and the Protected Structure status of the significant St. Kevin's building, it is considered that this open space requirement applies to the subject development.

The calculation of Public Open Space for the St. Kevin's development is complex, given the steep topography of the site and the presence of sensitive existing structures on the site. In this regard, whilst the red line application boundary relates to an overall site area of 5.7 ha approximately, this includes the area zoned as Landscape Preservation Zone (LPZ), which is being kept free from development in line with Development Plan policy, together with areas where the site topography simply precludes new development.

As such, the 'developable' area of site that remains available comprises 4.2 ha. By our calculations, therefore, the subject development provides a total of 7,200 sq m (0.72 ha) of useable passive and active Public Open Space within the development. This equates to c. 17% of the developable site area. This is below the minimum Public Open Space *Development Plan* requirement for development on '*Institutional Sites/Sites forming the setting to a Building of Significance*' of 20%, which would result in the required provision of c. 8,400 sq m (0.84 ha).



On that basis, it is considered that this shortfall in open space provision comprises a Material Contravention of the Development Plan. (The attached diagram prepared by Aecom titled 'Usable Open Space' illustrates the overall site area and the above referenced 'developable area' and the relevant areas of proposed Public Open Space.)

As required in legislation, it is submitted that the above contraventions can be justified under Section 37(2)(ii) of the *Planning and Development Act 2000* (as amended) where the Board may determine under this section, to grant a permission even if the proposed development contravenes materially the Development Plan relating to the area of the planning authority to whose decision the appeal relates.

This section states that the Board may only grant permission in accordance with paragraph (a) where it considers that:

(ii) *There are conflicting objectives in the development plan or the objectives are not clearly stated, insofar as the proposed development is concerned, or...*

It is considered that the proposed development will inherently accord with National and Regional sustainable planning principles particularly in relation to the promotion of more compact and efficient forms of urban development on brownfield sites and increased residential densities in appropriate locations. This is in line with the National Planning Framework and the above referenced apartment design guidelines.

Regarding the provision of Public Open Space on the site, it is noted that Table 16.6 of the Development Plan re-states the relevant open space requirement as 10-15% of the relevant site area. There is no further mention of the minimum 20% requirement as described above. The proposed Public Open Space provision in this development would comfortably exceed the 15% provision as required in Table 16.6. Accordingly, it is submitted that there are unclear or conflicting objectives in the Development Plan in respect of Public Open Space provision as per Section 37(2)(ii) of the Act as described above. In addition, it is noted that when the LPZ is taken into consideration (1.27 ha), which will be available for use as Public Open Space, the overall provision increases to 2.59 ha, or some c. 45% of the overall landholding.

On that basis, it is submitted that the Board can grant permission for the proposed development, having regard to the above provision.

APPENDIX A – USABLE OPEN SPACE DIAGRAM, PREPARED BY AECOM

Usable Open Space

Within the 5.7Ha site there is 4.2Ha site area available for development in which there is provided 2.59Ha of gross open space (45.43% of total site area) of which 0.72Ha is usable open space (17.14% of developable land area). This usable open space is in the form of lawns, terraces, play spaces and a MUGA. The residents also have access to public amenity space such as woodland walks and access to the 1.27Ha landscaped Landscape Preservation Zone. As a result, the site is well serviced by usable, landscaped and equipped public open space.

The usable open space can be further divided into active and passive usable open space. Formal play and sport opportunities, such as the MUGA form the 'active' category, while spaces for informal kickabout, picnic gatherings or relaxation make up the 'passive' category.

The open spaces are well overlooked by adjacent units, this way providing passive surveillance and preventing anti social behaviour.

Key

-  Developable Area: 4.2Ha
-  Gross Open Space: 2.59Ha
-  Active Usable Open Space: 0.14Ha
-  Passive Usable Open Space: 0.58Ha
-  Passive Supervision

