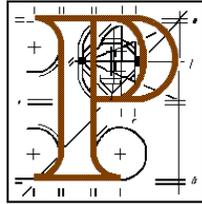

An Bord Pleanála



Inspector's Report

Ref.: PL28. 245912

Development: Student accommodation development comprising 1) the change of use from hotel to provide 3 No. student accommodation apartments; 2) the change of use from leisure centre to provide 6 No. student accommodation apartments; 3) the construction of 8 No. student accommodation apartments to the rear (south) of Brookfield Hotel / Leisure Centre and 4) all associated ancillary development works including landscaping and revisions to the existing access and car park layout.

Brookfield Village Student Accommodation and Leisure Centre Complex, College Road, Cork.

PLANNING APPLICATION

Planning Authority: Cork City Council

Planning Authority Ref.: 15/36530

Applicant: Variety Holdings Ltd.

Type of Application: Permission

Planning Authority Decision: Grant subject to conditions

APPEAL

Type of Appeal: First Party v. Conditions
Third Party v. Decision

Appellant(s): Robert & Maura White (Third Party)

Observers: None.

INSPECTOR: Robert Speer

Date of Site Inspection: 20th April, 2016

1.0 SITE LOCATION AND DESCRIPTION

1.1 The proposed development site is located within the confines of the 'Brookfield Village Student Accommodation and Leisure Centre Complex' in the vicinity of University College Cork, approximately 1.8km southwest of Cork City Centre, and whilst the surrounding pattern of development is primarily residential in character with several examples of established housing schemes, the immediate site surrounds include a variety of educational facilities / services associated with the wider functioning of the university, with particular reference to the University Hall to the immediate north of the application site and the UCC Brookfield Health and Science Complex / UCC Medical Complex to the east. The site itself has a stated site area of 1.16 hectares, is irregularly shaped and forms part of a wider complex of student housing that is characterised by a series of conventionally designed accommodation blocks which extend to several storeys in height and are of a red brick construction. It is accessed via an existing internal road network that extends northwards from a junction onto College Road with vehicular access to the wider site regulated by the use of a barrier system. At present, the application site is occupied by an existing hotel and leisure centre complex with associated car parking etc. in addition to an area of levelled green space situated to the south of same which would appear to have previously been in use as tennis courts. The site is bounded by the remainder of the 'Brookfield Village' student accommodation to the east and southeast, by the Curragheen River to the north (with the University Hall beyond same), by a detached private residence ('San Paula') set within substantial grounds to the south, and by an established housing scheme known as 'The Grove', which comprises conventional two-storey detached dwelling houses set out in a typical cul-de-sac format, to the immediate west. The topography of the wider landholding is characterised by a gradual fall from College Road towards the Curragheen River and in this respect it should be noted that there is a considerable ground level difference between the application site and those lands to the immediate south of same whilst there is also a notable change in level relative to the adjacent housing scheme to the west i.e. 'The Grove'.

2.0 DESCRIPTION OF PROPOSED DEVELOPMENT

2.1 The proposed development, as initially submitted to the Planning Authority, consists of the following:

- a) The change of use of an existing hotel (as outlined in green hatching on the submitted floor plans) to provide for 3 No. student accommodation

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- apartments (comprising 2 No. seven-bedroom units and 1 No. eight-bedroom unit).
- b) The change of use of the existing leisure centre complex (as outlined in orange hatching on the submitted floor plans) to provide for 6 No. student accommodation apartments (comprising 3 No. eight-bedroom units, 2 No. seven-bedroom units and 1 No. six-bedroom unit).
 - c) The construction of a new free-standing two-storey student accommodation block (as outlined in blue hatching on the submitted floor plans) to the rear (south) to the existing hotel and leisure centre complex which will provide for a total of 8 No. apartments (comprising 4 No. seven-bedroom units and 4 No. six-bedroom units).
 - d) Associated ancillary development works, including the provision of a covered bicycle parking area, a bin storage compound, landscaping, infrastructural and drainage works, and revisions to the existing access and car park layout.
 - e) The reservation of an area of land for the provision of an amenity walking route alongside the Curragheen River as per the requirements of the Cork City Development Plan, 2015.

2.2 The proposed change of use of the existing hotel and leisure centre will necessitate the carrying out of various alterations to the internal layout of the structures in question and the completion of associated elevational changes. In this regard, it is of particular relevance to note that the proposal includes for the installation of a series of projecting bedroom windows at first floor level within the western elevation of the existing leisure centre building.

2.3 In response to a request for further information, revised proposals were submitted which included for relatively minor alterations to the internal layout of the proposed development.

3.0 RELEVANT PLANNING HISTORY

3.1 On Site:

PA Ref. No. 91/16963. Was granted on 5th December, 1991 permitting Variety Holdings Ltd. permission to erect a swimming pool, leisure complex and associated catering facilities.

PA Ref. No. 93/17957. Was granted on 1st April, 1994 permitting Variety Holdings Ltd. permission to extend gym and associated facilities.

PA Ref. No. 96/20907. Application by Variety Holdings Ltd. for permission for alterations and 3-storey extension to existing leisure centre. This application was withdrawn.

PA Ref. No. 97/21407 / ABP Ref No. PL28.103792. Was granted on appeal on 17th February, 1998 permitting Variety Holdings Ltd. permission for a three storey extension to leisure centre to provide 24 bedroom hotel with bar and dining facilities.

PA Ref. No. 98/22538. Was granted on 14th December, 1998 permitting Variety Holdings Ltd. permission for alterations to hotel entrance foyer and first floor lounge.

PA Ref. No. 98/22700. Was granted on 11th April, 1999 permitting Variety Holdings Ltd. permission for 30 No. apartments with car parking and site works at Brookfield, College Road, Cork.

PA Ref. No. 07/31787 / ABP Ref. No. PL28.223678. Was refused on appeal on 7th March, 2008 refusing Variety Holdings Limited permission for the construction of 23 No. student/holiday apartment units ranging from two to six bedrooms in 2 No. buildings varying in height from three to five storeys together with associated site development works, for the following reason:

- Having regard to the backland location of the site, the pattern of development in the vicinity, the nature and the intensity of the proposed use, the height and mass of the buildings, their design and their proximity to existing houses and their rear gardens, it is considered that the proposed development would seriously injure the amenities of property in the vicinity by reason of overlooking, visual obtrusiveness, noise, traffic generation, general disturbance and inadequate parking for the holiday apartment use. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

PA Ref. No. 10/34436 / ABP Ref. No. PL28.237742. Was granted by the Planning Authority on 22nd February, 2011 permitting Variety Holdings Limited permission for alterations and change of use of the existing hotel to provide a nursing home and all associated ancillary development works (*N.B.* The subsequent first party appeal related solely to the imposition of development contributions).

PA Ref. No. 10/34642. Was refused on 1st March, 2011 refusing Variety Holdings Ltd. permission for a two storey extension to the nursing home permitted under Council Ref 10/34436 and all associated ancillary development works including landscaping, car parking and minor amendments and partial change of use of the existing leisure centre to nursing home use.

PA Ref. No. 11/34799 / ABP Ref. No. PL28.239023. Was refused on appeal on 5th October, 2011 refusing Variety Holdings Limited permission for the construction of a two-storey extension to the nursing home permitted under planning register reference number 10/34436 and all associated ancillary development works including landscaping, car parking and minor amendments and partial change of use of the existing leisure centre to nursing home use, for the following reason:

- Having regard to the location of the proposed development in an area liable to flood events, the provisions of Policy 12.11 as set out in the Cork City Development Plan 2009 – 2015, and “The Planning System and Flood Risk Management Guidelines for Planning Authorities” issued by the Department of the Environment, Heritage and Local Government in 2009, the Board is not satisfied, on the basis of the submissions made in connection with the planning application and the appeal, that the site can be safely developed and occupied as a nursing home, having regard to the nature of the proposed use. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

PA Ref. No. 11/35072 / ABP Ref. No. PL28.240044. Was granted on appeal on 12th October, 2012 permitting Variety Holdings Limited permission for the construction of a two-storey extension to the nursing home permitted under planning register reference number 10/34436 and all associated ancillary development works including landscaping, access, car parking and minor amendments and partial change of use of the existing leisure centre to nursing home use.

PA Ref. No. 13/35660 / ABP Ref. No. PL28.242369. Was granted on appeal on 12th December, 2013 permitting Variety Holdings Limited permission for the change of use of the existing Brookfield Leisure Centre to nursing home use, as an extension to the nursing home already permitted under planning register reference numbers 10/34436 and 11/35072 (An Bord Pleanála reference number 28.240044); and all associated ancillary development works.

PA Ref. No. 14/35895. Was granted on 22nd August, 2014 permitting Variety Holdings Ltd. permission for modifications to the ground floor of the nursing home permitted under Council ref. 13/35660 / An Bord Pleanala ref. 28.242369, by raising the finished floor level by 200mm and providing 13 no. bedrooms at ground floor level and all ancillary development works.

PA Ref. No. 14/36164. Application by Variety Holdings Ltd. for permission for the retention of the change of use from hotel to student accommodation, comprising 3 no. student accommodation apartments and all associated ancillary development works. This application was deemed to have been withdrawn.

PA Ref. No. 15/36267 / ABP Ref. No. PL28. 245315. Was refused on appeal on 4th February, 2016 refusing Variety Holdings Ltd. permission for the provision of 8 No. student accommodation apartments (over two storeys) adjoining Brookfield Leisure Centre and all associated ancillary development works including revisions to the existing access and car park layout at Brookfield Village Student Accommodation and Leisure Centre Complex, College Road, Cork, for the following reasons:

- Having regard to the provisions of the Cork City Development Plan, 2015 – 2021, the pattern of existing and permitted development in the vicinity and area and having regard to the submissions made in connection with the application and the appeal, and notwithstanding the zoning for the site, it is considered that the proposed development would be contrary to the policy objectives of the planning authority as set out in the Development Plan. It is considered that the development, if permitted, would contravene Objective 11.7, as set out in the Development Plan, which deals with Public Open Space and where it is the stated objective of the Plan, amongst others, to protect, retain, improve and provide for areas of public open space for recreation and amenity purposes. The objective further provides that there will be presumption against development on all open space in residential estates in the city, including any green area/public amenity area that formed part of an executed planning permission for development and was identified for the purposes of recreation/ amenity open space, and also including land which has been habitually used as public open space. Such lands shall be protected for recreation, open space and amenity purposes. Given the historical use of the subject site as the primary open space area serving the overall Brookfield Village development, it is considered that the proposed development would be

contrary to this Development Plan Objective and would, therefore, be contrary to the proper planning and sustainable development of the area.

Furthermore, it is further considered that the proposed development would contravene Objective 10.9 of the planning authority, as set out in the Development Plan, which deals with River and Waterway Corridors and seeks to protect and maintain the integrity and maximise the potential of the natural heritage and biodiversity value of the River Lee and its associated watercourses. Developments in river corridors are required to dedicate a minimum of 10 metres from the water's edge in channelized rivers for amenity, biodiversity and walkway purposes. Having regard to the proposed layout of the site, together with the proposed provision of 28 new car parking spaces along the boundary with the river, it is considered that the proposed development would contravene this Development Plan objective and would, therefore, be contrary to the proper planning and sustainable development of the area.

- Having regard to the backland location of the proposed student accommodation building, together with the differing ground levels, the Board is not satisfied that the development, if permitted, would result in appropriate levels of residential or general amenity for the future residents of the building. Furthermore, it is considered that the development would negatively impact on existing residential amenities for existing residents of Brookfield Village by reason of the loss of public open space and the residents of the wider area, by reason of proximity to private homes, noise and impacts on the general amenities of the area. The proposed development would, therefore, seriously injure the residential and general amenities of the area and would be contrary to the proper planning and sustainable development of the area.

4.0 PLANNING AUTHORITY CONSIDERATIONS AND DECISION

4.1 Decision:

Following the receipt of a response to a request for further information, on 8th December, 2015 the Planning Authority issued a notification of a decision to grant permission for the proposed development subject to 13 No. conditions which can be summarised as follows:

Condition No. 1 – Refers to the submitted plans and particulars.

Condition No. 2 – States that permission is not granted for the change of use of the existing leisure centre to student accommodation and also requires the submission of revised drawings for the written agreement of the Planning Authority, prior to the commencement of development, which incorporate the following alterations:

- a) The amalgamation of the kitchen / living areas within Apartment Nos. 7 & 9 with a bedroom to form a larger kitchen / living area within each of those units.
- b) The provision of a living / dining / kitchen area within Apartment No. 8 in lieu of that located within the area outlined in orange on the submitted drawings. This is to be provided in the area marked as 'Bedroom 3' and amalgamated with a further bedroom to provide adequate and usable living space for the apartment unit.
- c) The relocation of the windows serving Bedroom No. 8 of Apartment No. 8 and Bedroom No. 7 of Apartment Nos. 7 & 9 from the north-eastern elevation to the south-eastern elevation.

Condition No. 3 – Refers to external finishes.

Condition No. 4 – Prohibits any change of use to an alternative form of living accommodation without a prior grant of planning permission.

Condition No. 5 – Refers to landscaping of the site and the provision of car and bicycle parking. It also includes a specific requirement relating to the provision of a 10m or 15m wide riverside amenity corridor as per Objective 10.9 of the Development Plan in addition to a detailed rationale for whichever is considered appropriate.

Condition No. 6 – Requires the amenity corridor referenced in Condition No. 5 to be reserved for future use as a public walkway & cycleway.

Condition No. 7 – Refers to landscaping of the site.

Condition No. 8 – Refers to lighting, disabled parking, the future provision of electrical vehicle charging points, and the submission of a construction traffic management plan for agreement with Cork City Council.

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- Condition No. 9 – Requires the implementation of the measures proposed in the Flood Risk Assessment and specifies further drainage infrastructure requirements.
- Condition No. 10 – Refers to noise attenuation / mitigation.
- Condition No. 11 – Refers to wider construction management issues, including the need to engage the services of a recognised bat expert both prior to, and during, any tree felling, vegetation clearance and demolition works etc.
- Condition No. 12 – Refers to noise emissions and the hours of operation during the construction stage.
- Condition No. 13 – Requires the payment of a development contribution in the amount of €95,374.68.

4.2 Objections / Observations:

A total of 2 No. submissions were received from interested parties and the principle grounds of objection contained therein can be summarised as follows:

- Loss of residential amenity attributable to overlooking and a consequential loss of privacy.
- Devaluation of neighbouring property.
- Increased noise and nuisance.
- The previous planning history of the application site.
- The wider suitability of the site having regard to flooding concerns.
- The loss of recreational facilities consequent on the proposed development.
- The potential for subsidence of adjoining land / property.
- The unsuitable positioning of the site notice.

4.3 Internal Reports:

Chief Fire Officer: An initial report recommended that the proposed development be refused permission on the basis that it would endanger the health and safety of persons occupying or employed in the structure in the event of fire, although it was also suggested that the proposal could be re-examined in the event the applicant were to submit a revised layout which showed compliance as regards the means of escape in the case of fire with the requirements of Part B of the Second Schedule to the Building Regulations, 1997-2014.

Following the receipt of revised proposals in response to a request for further information, a final report was prepared which stated that there was no objection

to the proposed development and that any outstanding fire safety issues could be addressed at fire safety certificate stage.

Drainage Division: No objection subject to conditions.

Environment, Waste Management & Control: No objection subject to conditions.

Environment and Recreation: States that the noise report submitted in response to the request for further information appears to be satisfactory. It was further noted that whilst concerns had previously been raised in respect of PA Ref. No. 15/36267 with regard to the impact of noise levels emanating from the leisure centre on the proposed apartments, on the basis that the subject proposal now incorporated the leisure centre and included for the removal of the extractor fans, these concerns had been addressed and it was agreed that mitigation measures would not be required.

Planning Policy: Refers to the submitted landscaping details and notes that the applicant has illustrated the provision of a 15m wide 'amenity' corridor along the entire length of the river within the site, with the exception of the easternmost part of same where an access road / turning point has been indicated. It is subsequently recommended that conditions be included in any grant of permission with regard to the definition and protection of a 15m wide corridor and preparation of a detailed landscaping / planting plan appropriate to the waterside site location.

4.4 Prescribed Bodies / Other Consultees:

Irish Water: No objection subject to conditions.

5.0 GROUNDS OF APPEAL

The grounds of appeal are summarised as follows:

5.1 Third Party:

- The subject application has sought permission for the development of identical student accommodation to that previously considered by the Board under PA Ref. No. 15/36267 / ABP Ref. No. PL28. 245315.
- The proposed development is ill-conceived and poorly planned and would seem to form part of an orchestrated effort to submit multiple and simultaneous planning applications in the hope of eventually securing a grant of planning permission.

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- Whilst it is accepted that the decision of the Planning Authority in respect of the subject application has acknowledged the close proximity of the proposed development to the appellants' home and also refused permission for the proposed change of use of the leisure centre to student accommodation, it is submitted that this does not sufficiently address the issues raised in relation to the development of the existing tennis courts and thus the Board is requested to refuse the development in its entirety.
 - The proposed development will give rise to the excessive overlooking of the appellants' property (including bedroom windows and a patio area) due its siting and the inclusion of multiple windows orientated towards same. In this regard particular reference is made to the 5 No. 'walk-in' bay windows proposed at first floor level within the former leisure centre building and it is further submitted that the use of opaque glazing will not address the appellants concerns as the windows in question will be open during periods of warm weather thereby giving rise to a loss of privacy in addition to other noise and nuisance impacts.
 - It is a basic tenant of good urban planning, as set out in the *'Urban Design Manual: A Best Practice Guide'* published by the Department of the Environment, Heritage and Local Government in 2009, *'that each home has access to an area of useable private outdoor space'*. Furthermore, *'Windows are sited to avoid views into the home from other houses'* and *'Privacy and amenity are extremely basic human rights'*.
 - The existing screening / boundary treatment between the appellants' property and the application site would be inadequate to mitigate the likely loss of privacy and quality of life associated with the proposed development.
 - The proposed development will have a detrimental impact on the value of the appellants' property.
 - The overall size and scale of the development proposed would have a significant detrimental noise and nuisance impact on the appellants' dwelling house given its relative proximity to same.
 - The suggestion put forward by all operators of student accommodation that their respective facilities are well run is not a view shared by local residents. The proposal for student accommodation (which will inevitably also be made available for short-term letting during the summer months) is totally unsuitable given its proximity to a residential area and in this respect it is submitted that account must be taken of the very specific type of usage proposed.

5.2 First Party:

This appeal has been lodged by the applicant with regard to the inclusion of Condition No. 2:

- Permission has already been granted on site for the change of use of the leisure centre to a residential nursing home by both Cork City Council and the Board under PA Ref. No. 14/35895 and ABP Ref. No. PL28.242369 respectively. In this respect it should be noted that the Planning Authority and the Board both agreed that use as a residential nursing home accorded in full with the objectives of the Planning Authority as set out in City Development Plan and that said development would not seriously injure the amenities of the area, would be acceptable in terms of traffic safety and convenience, and would be in accordance with the proper planning and sustainable development of the area. Therefore, on the basis that both a nursing home and student accommodation comprise residential use, it is submitted that the Planning Authority's decision in respect of the subject proposal is based on an unfounded and negative assumption that student accommodation would somehow cause a 'nuisance' to adjoining residents unlike a nursing home. It is considered that such a bias against student accommodation is baseless, seriously flawed and contrary to planning policy in relation to student accommodation.
- The assertion by the Planning Authority that the cumulative amount of student accommodation proposed on site would be excessive or would have a negative impact on the residential amenity of adjoining lands is rejected. Therefore, the Board is requested to omit Condition No. 2 on the basis that the proposed change of use of the leisure centre would not have a negative impact on the residential amenities of adjoining properties, would make a very important contribution to this part of Cork City, would provide much needed student accommodation, and would comply in full with the Cork City Development Plan, 2015 and national planning policy.
- With regard to the Planning Authority's reference to an over-intensification of student accommodation which would be to the detriment of existing residential amenity, it is submitted that the plot ratio, site coverage and density of the proposed development is modest and thus the assertions in the Planner's Report that the scale and intensity of student accommodation is excessive are erroneous.
- The suggestion that the 'nature' of student accommodation would somehow have a negative impact on the residential amenity of the area is

rejected. The applicant specialises in the provision and management of student accommodation and during its 25-year experience of managing the Brookfield student complex, there has never been a complaint or incidence of nuisance / anti-social behaviour. There is a detailed management plan for the complex which includes 24-hour supervision / management, CCTV, the use of key fobs, a registration system for students, and legally binding tenant obligations based on a code of conduct.

- The existing Brookfield complex is managed to a high standard and the same management team will be responsible for the management of the proposed development. There are 3 No. permanent office staff and additional personnel hired during the summer period to deal with new applications for the coming college year. There are 2 No. caretakers on site daily and there is also 24-hour security / management available outside of normal working hours. Therefore, the suggestion that the complex may not be managed to an appropriate standard is baseless.
- The attempt in the Planner's Report to differentiate between the level of amenity demanded by the permitted nursing home and the proposed student accommodation demonstrates an antiquated bias against the proposal which is inappropriate and should not form part of an objective planning assessment.
- A number of sectional drawings detailing the proposed development relative to the existing dwelling house as No. 15 The Grove were submitted as part of the planning application. These sections indicate the boundary treatments and the triangular fenestration proposed at first floor level and thus demonstrate that there will be no adverse impact on adjoining property within The Grove.
- All works associated with the proposed change of use of the existing leisure centre building will be internal, with the exception of the provision of the triangular fenestration, and will have no additional impact on adjoining residents.
- It is considered that the proposed change of use from leisure centre to student accommodation is less intensive and will reduce the potential impact (e.g. in relation to traffic) on the surrounding area.
- There are presently 104 No. apartments within Brookfield, with an additional 17 No. units to be provided as part of the subject proposal, which would equate to a density of 33.6 No. apartments / hectare. This is considered to be modest given the central location of the site and its close proximity to UCC.

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- It should be noted that approximately 50% of the overall site area is dedicated to public open space which results in a high quality parkland setting for the student accommodation. This open space provision equates to 28.1m² per student and is evenly distributed across the site.
 - The overall plot ratio for the proposed development and the wider Brookfield Scheme would equate to 0.35 which is extremely modest given the site location.
 - The proposed density, public open space provision, site coverage and plot ratio are all in accordance with the standards set out in the Development Plan and thus the suggestion that the overall level of student accommodation provided within Brookfield is excessive is misguided.
 - The proposed change of use of the leisure centre will provide for much needed student accommodation within walking distance of UCC. In this respect the Board is referred to a report on the '*Demand and Supply of Student Accommodation*' issued by the Higher Education Authority in 2015 wherein it was stated that there is an unprecedented demand for student accommodation and that there is a shortfall of 25,000 No. student bed places across the country '*with the problem most acute in Dublin, Cork and Galway*'. The recommendations set out in this report include the siting of student accommodation in suitable areas and the flexible application by local authorities of guidelines for the specification of student accommodation.
 - The proposed accommodation will be of a high standard and will complement the existing development within Brookfield. The Board is requested to consider the potential contribution of the proposed change of use of the leisure centre as regards addressing the chronic shortage of student accommodation in Cork City.
 - Brookfield Leisure Centre is a commercial premises and the applicant is under no obligation to retain same and thus is fully entitled to seek a change of use to student accommodation. This was accepted by the Planning Authority and the Board in their determination of previous applications / appeals on site (with particular reference to PA Ref. No. 13/35660), however, in their assessment of the subject proposal the Planner's Report adopted a different position on the basis that residents of the nursing home would not need access to a commercial leisure facility whereas students would. The assertion that residents of a nursing home and student accommodation '*would not have the same demands of amenity and leisure*' and the statement that student accommodation would have a greater impact on the residential amenity of adjoining properties is antiquated and an inappropriate basis for planning assessment.

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- The suggestion that the leisure facility should be retained as it makes an important contribution to the existing Brookfield complex is misguided and based on a narrow perspective. The applicant is under no obligation to continue operating the leisure centre on the basis that it provides a service to the area.
 - There are several other leisure centres and swimming pool facilities open in this part of Cork City that offer both private and public membership (e.g. The Mardyke Arena).
 - Contrary to the Planner's Report which states that the loss of the leisure centre will have a detrimental impact on Brookfield student village, it is submitted that the main attraction of the student accommodation in Brookfield is its location in close proximity to UCC and the City Centre in addition to its affordability and the high standard of accommodation provided.
 - It is of relevance to note that students of UCC automatically gain membership of the Mardyke Arena leisure centre which offers a larger and more modern pool and gym etc. Students of CIT gain membership to Leisure World, also nearby in Bishopstown, and there are several other leisure centres in the area.
 - The provision of the proposed student accommodation is consistent with the applicable land use zoning objective.
 - The Cork City Development Plan, 2015 recognises that there is a significant demand for student accommodation and Section 16.68 of same state that given the growth in recent years of the numbers of third level students together with the planned expansion of the City's major educational facilities, there is a demand for specific residential accommodation to cater for this need.

The proposed development fully complies with the objectives of the Development Plan as it is located in close proximity to and within easy walking distance of UCC; it is served by regular bus services; it will not have an adverse or negative impact on local residential amenities; and it will provide for ample amenity areas / open space in addition to high quality on-site facilities such as laundry, car parking, bicycle storage etc.

- The applicant is amenable to providing written confirmation of a 'Qualifying Lease' as defined in the Guidelines on residential development for third level students published by the Department of Education and Science (May, 1999) to prove that the accommodation is let to students during the academic year.

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- With regard to the Planning Authority's comments in relation to the size of the apartment units and the possible subdivision into units with no more than 4 No. bedrooms, it is the applicant's preference to provide a mix of 6, 7, & 8 No. bedroom units as outlined in the original submission lodged with the Council. The development as proposed will also add to the overall mix of student accommodation in Brookfield.
 - The standard of both the existing and proposed accommodation within Brookfield student village is very high and well beyond the specifications outlined in the Guidelines on Residential Development for Third Level Students, 1999.

6.0 RESPONSE TO GROUNDS OF APPEAL

6.1 Response of the Planning Authority:

No further comments.

6.2 Response of Third Party Appellants to First Party Appeal:

- With regard to the assertion by the applicant that there has not been a single compliant or incident of nuisance / anti-social behaviour in the last 25 years, the Board is advised that a previous submission made to the Planning Authority by a local resident stated the following:

'The student village has been a consistent source of friction between the homeowners and students and their parties and anti-social behaviour. The Gardai are aware of this and have been called on several occasions. The existing student units are within a few metres of our eastern boundary and we might as well be at their late night parties and carry on almost every weekend and during the week during the College term'.

- It is the opinion of the appellants that the applicant secured planning permission for a nursing home on site in the hope that this would serve to facilitate an application for student accommodation.
- The suggestion that there is no difference between a nursing home and student accommodation is rejected. The Planning Authority recognised the clear differences between the two uses and the negative impact the subject proposal would have on the appellants' residential amenity due to the nature of the use proposed and its proximity to their property.
- The Board is requested to uphold the decision of the Planning Authority with regard to the proposed change of use of the leisure centre building

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- and to also refuse permission for the proposed development on the adjacent tennis courts.
- The extent of screening between the proposed development and the appellants' dwelling house is inadequate to preserve their residential amenity / privacy / quality of life.

6.3 Response of First Party to Third Party Appeal:

- It is reiterated that the *'Report on Student Accommodation: Demand & Supply'* prepared by the Higher Education Authority in September, 2015 outlined an unprecedented demand for student accommodation and a shortfall of 25,000 No. student bed places across the country with the problem most acute in Dublin, Cork and Galway. Indeed, the supply of student accommodation available in Cork City does not reflect the significant demand for same. The shortage of bed spaces nationally is estimated to be a minimum of 25,000 No. with the shortage in Cork considered to equate to at least 3,000-4,000 No. beds. This shortage is also set to be exacerbated in the coming years based on a growing demand for additional student accommodation and the lack of supply.
- Section 16.68 of the Cork City Development Plan, 2015 recognises that given the growth in recent years in the numbers of third level students, together with the planned expansion of the City's major educational facilities, there is a demand for specific residential student accommodation to cater for this need.
- The proposed development complies with all of the criteria set out in Chapter 6: 'Residential Strategy' of the City Development Plan with regard to the provision of student housing.
- The applicant has significant experience in relation to student accommodation and intends to make the subject development immediately available to help meet the acute shortage of such accommodation that presently exists in the City.
- Written confirmation can be provided of a 'Qualifying Lease' as defined in the *'Guidelines on Residential Developments for Third Level Students'* as published by the Department of Education and Science (May, 1999) to prove that the proposed accommodation is let to students within the academic year.
- The Board is requested to have particular regard to the suitability of the application site for the provision of student accommodation and the fact that permission has already been granted for the same scale and quantum of development (in terms of floorspace, height etc.) within this part of the Brookfield complex for residential (nursing home) accommodation under

ABP Ref. Nos. PL28.237742, PL28.240044 & PL28.242369. Given this planning history the applicant was particularly disappointed at the Board's recent decision to refuse permission for 8 No. student accommodation apartments under ABP Ref. No. PL28.245315 and, therefore, in its assessment of the subject appeal the Board is requested to have regard to the following:

- The proposed extension to the rear of the hotel / leisure centre is not a 'public open space'; does not form part of a residential estate; has planning permission for residential development (nursing home accommodation) under ABP Ref. No. PL28.240044; and has not been 'habitually used' as public open space.
- No additional development / car parking space is to be provided as part of the subject application – in fact it is evident from the revised site plan submitted by way of further information (Drg. No. 1005-P9-04) that there will be a reduction in car parking / development in line with Objective 10.9 of the Development Plan which seeks to protect and maintain the integrity and to maximise the potential of the natural heritage and biodiversity value of the River Lee and its associated watercourses. The subject proposal will provide a much larger buffer (than existing development) from the water's edge in line with Objective of 10.9.
- The proposed development consists of the provision of student accommodation in lieu of the nursing home permitted under ABP Ref. No. PL28.240044 and thus it cannot be considered to involve a backland location. The levels proposed are also identical to those permitted under ABP Ref. Nos. PL28.240044, PL28.242369 & PL28.245315 and will result in the same quantum of residential development as previously approved. It should not be assumed that student accommodation will have a negative impact on the general amenities of the area in relation to noise and impacts on adjoining properties. Both student accommodation and nursing homes require the same level of amenity and the Board is requested to give equal consideration to both.
- The proposed change of use of the hotel / leisure centre to student accommodation involves a less intensive use of the existing buildings and site in terms of occupancy, traffic, car parking etc.
- The proposed change of use will result in a significant reduction in the requirement for plant and equipment (such as air handling units) which

will contribute to an improvement in the general amenity of the area (such as through a reduction in noise levels).

- In the event that the subject proposal does not secure planning permission the applicant will have no choice but to develop the nursing home permitted under ABP Ref. Nos. PL28.240044, PL28.242369 & PL28.245315.
- The suggestion that the proposed student accommodation would have a negative impact on the residential amenities of the surrounding area is completely erroneous, unwarranted and demonstrates a bias against such accommodation which is unfounded and unfair.
- The appellants reference to an orchestrated effort to submit '*multiple and simultaneous*' applications on site is rejected. The 'multiple' planning applications referenced in the grounds of appeal primarily relate to the nursing home permitted under ABP Ref. Nos. PL28.240044, PL28.242369 & PL28.245315 – there have been no '*multiple planning applications*' in relation to student accommodation. The subject proposal is the only application which has included the existing hotel, leisure centre and the extension to provide 8 No. student apartments as one development.
- The subject proposal involves the development of student housing in lieu of the residential (nursing home) accommodation previously approved under ABP Ref. No. PL28.240044 and thus it cannot be considered to involve a material change as the proposed use (i.e. residential) and the scale of development is identical to that permitted under ABP Ref. Nos. PL28.240044, PL28.242369 & PL28.245315 and will result in exactly the same quantum of residential development.
- The proposed development will not result in any overlooking of the appellants' property on the basis of the following:
 - There are no windows within the eastern gable of the appellants' dwelling house adjoining the existing building and therefore any suggestion of overlooking of bedrooms / living space or any other part of the appellants' property is inaccurate.
 - There is no visibility between the application site and the appellants' dwelling house due to the presence of a substantial boundary between the respective properties which completely prevents any overlooking or views to / from the site towards the appellants' dwelling house.
 - The subject proposal provides for a significant reduction in the extent of glazing facing towards the western site boundary.

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- The windows on the western elevation of the proposed accommodation have been designed so that the views from same are orientated away from the appellants' property whilst the extent of glazing has also been reduced.
 - The proposed development has been carefully designed to avoid any negative impact on adjoining residential properties. Furthermore, as the proposal involves the change of use of an existing building:
 - There will be no overshadowing or loss of light on any adjoining property consequent on the proposed development.
 - There will be no extension or external amendments to the existing two-storey building which has the same ridge height as the adjoining residences in The Grove.
 - The existing separation distances between the student accommodation and adjacent residences in The Grove will be maintained.
 - There will be a significant reduction in the extent of glazing along the western elevation of the existing building.
 - The proposed change of use of the leisure centre will result in a less intensive use of the existing building and site in terms of occupancy, traffic, car parking etc.
 - The proposed change of use will result in a significant reduction in the requirement for plant and equipment (such as air handling units) which will contribute to an improvement in the general amenity of the area (including a reduction in noise levels).
 - The proposed student accommodation has been designed to a very high standard and will have a positive impact on this part of the city.
 - The internal layout has been designed so that the proposed bedrooms will receive sunlight and, where possible, will also have views towards the amenity and garden areas included in the overall development. The design also includes for substantial communal living and recreation spaces.
 - The grounds of the existing Brookfield complex are very attractive and will provide a very high quality of amenity for the residents of the proposed accommodation. Unlike other residential / student schemes which were constructed in relatively peripheral / isolated locations not served by public transport, Brookfield is situated in a very accessible location immediately adjacent to UCC and served by a number of bus routes. The complex is

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- also close to other important services, including shops and health / medical facilities.
- The proposed development is consistent with the land use zoning objective for the site.

7.0 NATIONAL AND REGIONAL POLICY

7.1 The *'Guidelines on Residential Developments for 3rd Level Students'* issued by the Department of Education and Science in 1999 are intended to assist developers and designers in formulating proposals for student residential development and are of particular relevance as regards the specific design needs of student accommodation.

7.2 The *'Planning System and Flood Risk Management, Guidelines for Planning Authorities'* published by the Department of the Environment, Heritage and Local Government in November, 2009 introduce comprehensive mechanisms for the incorporation of flood risk identification, assessment and management into the planning process. The core objectives of the Guidelines are to:

- Avoid inappropriate development in areas at risk of flooding;
- Avoid new developments increasing flood risk elsewhere, including that which may arise from surface water run-off;
- Ensure effective management of residual risks for development permitted in floodplains;
- Avoid unnecessary restriction of national, regional or local economic and social growth;
- Improve the understanding of flood risk among relevant stakeholders; and
- Ensure that the requirements of the EU and national law in relation to the natural environment and nature conservation are complied with at all stages of flood risk management.

7.3 In achieving the aims and objectives of the Guidelines the key principles to be adopted should be to:

- Avoid the risk, where possible,
- Substitute less vulnerable uses, where avoidance is not possible, and
- Mitigate and manage the risk, where avoidance and substitution are not possible.

7.4 The Guidelines outline the need to identify flood zones and to categorise these according to their probability of flood events. Notably, these should be determined ignoring the presence of flood protection structures as such areas still carry a residual risk of flooding from overtopping or breach of defences and as there is no guarantee that the defences will be maintained in perpetuity.

7.5 A staged approach to Flood Risk Assessment is advocated with only such appraisal and / or assessment as is needed to be carried out for the purposes of decision-making at the regional, development and local area plan levels, and also at the site specific level. Stage 1 entails the identification of flood risk by way of screening of the plan / project in order to determine whether there are any flooding or surface water management issues related to the area or the site that may warrant further investigation. This is followed by Stage 2 (Initial flood risk assessment) which seeks to confirm the sources of flooding that may affect a plan area or site, to appraise the adequacy of existing information and to scope the extent of the risk of flooding which may involve preparing indicative flood zone maps. Where hydraulic models exist the potential impact of a development on flooding elsewhere and of the scope of possible mitigation measures can also be assessed. The third and final stage (Stage 3: Detailed flood risk assessment) aims to assess flood risk issues in sufficient detail and to provide a quantitative appraisal of potential flood risk to a proposed or existing development or land to be zoned, its potential impact on flood risk elsewhere and of the effectiveness of any proposed mitigation measures.

7.6 Chapter 3 of the Guidelines states that the key principles of a risk-based sequential approach to managing flood risk in the planning system are to:

- **Avoid** development in areas at risk of flooding;

If this is not possible, consider substituting a land use that is less vulnerable to flooding.

Only when both avoidance and **substitution** cannot take place should consideration be given to **mitigation and management of risks**.

- Inappropriate types of development that would create unacceptable risks from flooding should not be planned for or permitted.
- **Exceptions** to the restriction of development due to potential flood risks are provided for through the use of a **Justification Test**, where the

planning need and the sustainable management of flood risk to an acceptable level must be demonstrated.

7.7 It is a key instrument of the Guidelines to undertake a sequential approach in order to guide development away from areas at risk from flooding such as through the use of flood zones and the vulnerability of different development types, however, it is recognised that several towns and cities whose continued growth and development is being encouraged (through the National Development Plan, Regional Planning Guidelines etc.) in order to bring about compact and sustainable urban development and more balanced regional development, contain areas which may be at risk of flooding. Where a planning authority is considering the future development of areas at a high or moderate probability of flooding that would include types of development that are inappropriate in terms of their vulnerability, the 'Justification test' set out in Box 5.1 of the Guidelines should be employed.

7.8 The vulnerability of development to flooding depends on the nature of the development, its occupation and the construction methods used. The classification of different land uses and types of development as highly vulnerable, less vulnerable and water-compatible is influenced by various factors including the ability to manage the safety of people in flood events and the long-term implications for the recovery of the function and structure of buildings.

8.0 DEVELOPMENT PLAN

Cork City Development Plan, 2015-2021:-

Land Use Zoning:

The proposed development site is located in an area zoned as '*Residential, Local Services and Institutional Uses*' with the stated land use zoning objective '*To protect and provide for residential uses, local services, institutional uses, and civic uses, having regard to employment policies outlined in Chapter 3*'.

Explanatory Note:

The provision and protection of residential uses and residential amenity is a central objective of this zoning, which covers much of the land in the suburban area. However other uses, including small scale local services, institutional uses and civic uses and provision of public infrastructure and utilities are permitted, provided they do not detract from residential amenity and do not conflict with the employment use policies in Chapter 3 and related zoning objectives. Small scale 'corner shops' and other local services such as local medical services, will be

open for consideration. Schools, third level education institutes, and major established health facilities are located within this zone and appropriate expansion of these facilities will be acceptable in principle. The employment policies in Chapter 3 designate particular locations for offices, office based industry, major retailing development and these uses are not generally permitted in this zone (Chapter 3: Enterprise and Employment). New local and neighbourhood centres or expansion of same are open for consideration in this zone provided they meet the criteria for such centres set out in Chapter 4.

Other Relevant Sections / Policies:

Chapter 6: Residential Strategy

Objective 6.5: Student Accommodation:

Any change of use from student accommodation to any other type of accommodation shall require planning permission. Generally such applications shall be resisted unless it can be adequately demonstrated that an over provision of student accommodation exists in the city.

Chapter 9: Built Heritage and Archaeology:

Objective 9.29: Architectural Conservation Areas:

To seek to preserve and enhance the designated Architectural Conservation Areas in the City.

Objective 9.32: Development in Architectural Conservation Areas:

Development in ACAs should take account of the following:

- Works that impact negatively upon features within the public realm such as paving, railings, street furniture, kerbing etc. shall not be generally permitted;
- Acceptable design, scale, materials and finishes for new developments;
- Original materials and methods of construction should be retained. For example, timber barge boards, windows and doors should not be replaced with PVC, original roofing material types should be retained along with original forms and locations of openings etc.;
- Features of historic or architectural value should not be removed.

N.B. The proposed development site is located on the fringe of the 'University College Cork (UCC), College Road and Magazine Road Proposed Architectural Conservation Area (ACA)'.

Chapter 10: Landscape and Natural Heritage:

Objective 10.9: River and Waterway Corridors:

To protect and maintain the integrity and maximise the potential of the natural heritage and biodiversity value of the River Lee and its associated watercourses.

To promote an integrated approach to the future development of the River Lee so that it includes all aspects of use e.g. recreation, maritime history and economic factors.

Development proposals in river corridors shall:

- a) Dedicate a minimum of 10m from the waters edge in channelized rivers for amenity, biodiversity and walkway purposes;
- b) Dedicate a minimum of 15m from the top of the bank in non- channelized rivers for amenity, biodiversity and walkway purposes;
- c) Preserve the biodiversity value of the site subject to Ecological Assessment by a suitably qualified Ecologist;
- d) Shall not involve landfilling, diverting, culverting or realignment of river and stream corridors;
- e) Shall not have a negative effect on the distinctive character and appearance of the waterway corridor and the specific characteristics and landscape elements of the individual site and its context.

Chapter 11: Recreational Infrastructure:

Objective 11.7: Public Open Space:

- a) To protect, retain, improve and provide for areas of public open space for recreation and amenity purposes. There will be a presumption against development of land zoned public open space for alternative purposes;

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- b) There will be presumption against development on all open space in residential estates in the city, including any green area/public amenity area that formed part of an executed planning permission for development and was identified for the purposes of recreation/ amenity open space, and also including land which has been habitually used as public open space. Such lands shall be protected for recreation, open space and amenity purposes;
 - c) To promote public open space standards generally in accordance with national guidance contained in Sustainable Residential Development in Urban Areas – Guidelines for Planning Authorities (DEHLG, 2009) and the accompanying Urban Design Manual – A Best Practice Guide;
 - d) The development of open spaces should aim to enhance and protect natural features and views and be set in safe and secure environments with the emphasis on active open spaces accessible to and enjoyed by all sectors of the community;
 - e) To follow an approach of qualitative as well as quantitative standards for open spaces providing high quality open spaces with high levels of access to recreation for local communities;
 - f) Specific design outcomes should be framed in relation to the nature of spaces being created or enhanced (e.g. in relation to maintenance, nature exposure and connectivity, strategic landscape and social role).

Objective 11.13: Amenity Routes:

To pursue the development of a network of high quality amenity routes, particularly along waterways, and linking existing and proposed parks and public open spaces, and to work with Cork County Council and other stakeholders to achieve and improve external linkages subject to Ecological Assessment and Appropriate Assessment Screening

Table 11.3: *'New/upgraded Amenity Routes'*: Along south bank of Curragheen River from the existing pedestrian bridge over the Curragheen River - Victoria Lodge Apartments – Victoria Cross Road.

Chapter 12: Environmental Infrastructure and Management:

Objective 12.13: Lee Catchment Management Plan / Lower Lee Flood Relief Scheme:

Cork City Council shall have regard to the recommendations of the Draft Lee Catchment Flood Risk Assessment and Management Plan and shall incorporate the updated hydraulic modelling, mapping data and recommendations of South West CFRMP / Lee CRFMP (River Catchment Framework Management Plan) and the Lower Lee Flood Relief Scheme as each plan progresses.

Objective 12.14: Flood Risk Management in Development Proposals:

Cork City Council will implement *The Planning System and Flood Risk Management: Guidelines for Planning Authorities, 2009* in the preparation of land-use plans and determining planning applications.

Objective 12.15: Restrictions on Development in Flood Risk Areas:

To restrict development in identified flood risk areas, in particular, floodplains, except where the applicant satisfies the Justification Test as outlined in *The Planning System and Flood Risk Management: Guidelines for Planning Authorities 2009*.

Objective 12.16: Floodplains:

To protect, enhance and manage the City's floodplains, wetlands and coastal habitat areas that are subject to flooding as vital 'green infrastructure' which provides space for storage and conveyance of floodwater, enabling flood risk to be more effectively managed and reduce the need to provide flood defence infrastructures.

Objective 12.17: Flood Impact Assessment:

All significant developments impacting on flood risk areas will be required to provide a Flood Impact Assessment to accompany the planning application to identify potential loss of floodplain storage and proposals for the storage or attenuation (e.g. SUDS) of run-off discharges (including foul

drains) to ensure development does not increase the flood risk in the relevant catchment.

Chapter 14: Suburban Area Policies:

Objective 14.12: University College Cork:

To support the sustainable development and expansion of University College Cork as an educational facility of regional and national importance

Chapter 16: Development Management:

Sections 16.68 – 16.69: Student Accommodation:

Given the growth in recent years of the numbers of third level students together with the planned expansion of the city's major educational/facilities, there is a demand for specific residential accommodation to cater for this need. Chapter 6: Residential Strategy outlines the City Council's policy on student housing. When dealing with planning applications for such developments a number of criteria will be taken into account including:

- The location and accessibility to educational facilities and the proximity to existing or planned public transport corridors and cycle routes;
- The potential impact on local residential amenities;
- Adequate amenity areas and open space;
- The level and quality of on-site facilities, including storage facilities, waste management, bicycle facilities, leisure facilities (including shop/café uses), car parking and amenity;
- The architectural quality of the design and also the external layout, with respect to materials, scale, height and relationship to adjacent structures. Internal layouts should take cognisance of the need for flexibility for future possible changes of uses;
- In all schemes the applicants will be required to provide written documentary confirmation for a 'Qualifying Lease' as defined in the Guidelines on Residential Developments for third level students published by the Department of Education and Science in May 1999, to prove that the accommodation is let to students within the academic year.

As per Objective 6.5 in Chapter 6, all permissions for student housing shall have a condition attached requiring planning permission for change of use from student accommodation to other type of accommodation. Future applications for this type of change of use will be resisted except where it is demonstrated that over-provision of student accommodation exists in the city.

9.0 ASSESSMENT

From my reading of the file, inspection of the site and assessment of the relevant local, regional and national policies, I conclude that the key issues raised by the appeal are:

- The principle of the proposed development
- Impact on residential amenity
- Flooding implications
- Appropriate assessment
- Other issues
- First party appeal

These are assessed as follows:

9.1 The Principle of the Proposed Development:

9.1.1 The proposed development site is located in an area zoned as '*Residential, Local Services and Institutional Uses*' in the Cork City Development Plan, 2015 with the stated land use zoning objective '*To protect and provide for residential uses, local services, institutional uses, and civic uses, having regard to employment policies outlined in Chapter 3*'. It is of further relevance to note that the application site is situated within the confines of the 'Brookfield Village Student Accommodation and Leisure Centre Complex' and thus the proposed development would be compatible with the established use of the wider landholding. Accordingly, I am satisfied that in this instance the overall principle of the proposed development complies with the wider land use zoning and development objectives applicable to the area, including the Cork Planning Authorities Joint Housing Strategy.

9.1.2 With regard to compliance with the specific locational and design criteria for student accommodation as set out in Sections 16.68 - 16.69 of the City Development Plan, I propose to consider these matters in turn as follows:

- *The location and accessibility to educational facilities and the proximity to existing or planned public transport corridors and cycle routes:*

The proposed development site is located within the confines of the 'Brookfield Village Student Accommodation and Leisure Centre Complex' which already includes a considerable extent of student housing and thus the subject proposal represents a compatible extension of the existing

prevailing land use. Furthermore, the site is located a short distance from the main campus area of University College Cork whilst the immediate site surrounds include a variety of educational facilities / services associated with the wider functioning of the university, with particular reference to the University Hall to the immediate north of the application site and the UCC Brookfield Health and Science Complex / UCC Medical Complex to the east. The site is also well serviced in terms of public transport.

- *The potential impact on local residential amenities:*

The potential impact of the proposed development on the residential amenity of adjacent properties, with particular reference to those residences within the adjoining housing estate of 'The Grove', is considered elsewhere in this report.

- *Adequate amenity areas and open space:*

The proposed construction of the new free-standing accommodation block to the rear of the existing hotel / leisure centre building will result in the loss of an area of open space which is presently available to students of the wider Brookfield Village development. Notably, the overall size and dimensions of this space, combined with its level ground and grassed surface, in addition to its enclosure by existing development, would suggest that it is suitable for certain formal / informal active amenity purposes and in this regard I would also note that part of this area was formerly in use as tennis courts. Accordingly, the impact arising from the loss of this amenity area / open space on the wider Brookfield development is considered in further detail elsewhere in this report.

By way of balancing the loss of the aforementioned green space, it is notable that the proposed development includes for various landscaping works (including the provision of bench seating and picnic tables) and an overall reduction in the extent of on-site car parking with a consequential increase in the extent of grassed / passive amenity area with provision having been made for the reservation of an area of land (10m / 15m wide) for the development of an amenity walking route alongside the Curragheen River. This inclusion for the future provision of a riverside amenity walkway is in direct response to the requirements of Objective 11.13: 'Amenity Routes' of the Cork City Development Plan and is to be welcomed.

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- *The level and quality of on-site facilities, including storage facilities, waste management, bicycle facilities, leisure facilities (including shop/café uses), car parking and amenity:*

The proposed development site is located within the confines of the 'Brookfield Village Student Accommodation and Leisure Centre Complex' which already benefits from a wide variety of on-site facilities / services including a local shop / retail unit, dedicated laundry facilities, a regulated system of car parking, a 24-hour on-site management / security presence, various areas of amenity open space, and an existing leisure centre that includes a swimming pool and a gymnasium. However, whilst the subject proposal includes for the development of certain additional amenities such as a new covered bicycle parking area, a bin storage compound, various landscaping works (including the provision of bench seating and picnic tables), an overall reduction in the extent of on-site car parking with a consequential increase in the extent of grassed / passive amenity area, and the reservation of an area of land (10m / 15m wide) for the development of an amenity walking route alongside the Curragheen River as per an objective of the Cork City Development Plan, 2015, it should also be emphasised that the proposed development will actually result in the loss of several aspects of the existing amenity provision within the wider student village and in this regard I would refer, in particular, to the proposed change of use of the existing hotel and leisure centre in addition to the development of student accommodation on the substantial area of open space to the south of the aforementioned buildings which would presently appear to be suitable for active amenity purposes and was seemingly previously in use as tennis courts. Accordingly, it will be necessary to balance the attributes of the submitted proposal in terms of 'additional' amenity provision with the associated loss of existing on-site facilities consequent on the proposed development which is considered elsewhere in this report.

- *The architectural quality of the design and also the external layout, with respect to materials, scale, height and relationship to adjacent structures. Internal layouts should take cognisance of the need for flexibility for future possible changes of uses:*

The proposed development site is located to the rear of the existing student village and comprises the existing hotel and leisure centre complex with its associated car parking etc. in addition to an adjacent area

of green space situated to the south / southwest of same. In this respect it is of relevance to note that the extent of open space proposed for the development of the new free-standing accommodation block is situated to the rear of a number of existing buildings within the wider student village, including the hotel / leisure centre complex and 2 No. existing student accommodation blocks, and that it is also bounded by a private residence ('San Paula') to the south and by an established housing development known as 'The Grove' to the immediate west. Accordingly, it would be reasonable to conclude that the proposed siting of the new free-standing accommodation block occupies a backland location to the rear of existing development and in this regard it is notable that the said element of the subject application essentially amounts to a resubmission of the development proposal previously refused permission on appeal under PA Ref. No. 15/36267 / ABP Ref. No. PL28. 245315. Indeed, the decision to refuse permission for ABP Ref. No. PL28. 245315 specifically referenced *'the backland location of the proposed student accommodation building'* and also stated that the Board was not satisfied that the development *'would result in appropriate levels of residential or general amenity for the future residents of the building'* before further stating that the proposal *'would negatively impact on existing residential amenities for existing residents of Brookfield Village by reason of the loss of public open space and the residents of the wider area, by reason of proximity to private homes, noise and impacts on the general amenities of the area'*. Therefore, I would advise the Board at this point in my assessment that its previous concerns as regards the layout and positioning of the aforementioned aspect of the overall development proposal would not appear to have been addressed in any meaningful manner such as through the relocation / redesign of the structure in question. I would also concur with the previous reporting inspector in their assessment of PA Ref. No. 15/36267 / ABP Ref. No. PL28. 245315 in that whilst the overall design of the proposed free-standing accommodation block is generally comparable to the two-storey (nursing home) extension previously permitted under PA Ref. No. 11/35072 / ABP Ref. No. PL28.240044, it is of particular relevance to note that said extension was intrinsically linked to the nursing home originally permitted under PA Ref. No. 10/34436 (ABP Ref. No. PL28.237742) with access to the construction obtained through the main (nursing home) building whereas the proposed new accommodation block is an entirely free-standing building accessed via an independent entrance arrangement by way of a pedestrian route that extends between the existing hotel building and a high retaining wall.

With regard to the actual design and architectural treatment of the proposed development, the change of use of the leisure centre will necessitate certain elevational alterations in order to accommodate the new fenestration arrangement required to reflect the proposed accommodation provision and in this regard it is intended to use brickwork which will match that of the existing hotel / leisure centre construction. In relation to the new free-standing accommodation block, whilst the overall design, scale and height of this building is generally in keeping with the surrounding pattern of development, the proposed use of an external smooth plaster finish is at variance with the wider brickwork appearance within the Brookfield student village, although given the backland siting of the proposed construction I am inclined to suggest that the intended external appearance of the new building will not give rise to any significant impacts in terms of the overall cohesion and visual amenity of either the Brookfield scheme or adjacent development.

- *In all schemes the applicants will be required to provide written documentary confirmation for a 'Qualifying Lease' as defined in the Guidelines on Residential Developments for third level students published by the Department of Education and Science in May 1999, to prove that the accommodation is let to students within the academic year:*

In response to the third party grounds of appeal, the applicant has confirmed that it has no difficulty in providing written confirmation of a 'Qualifying Lease' as defined in the 'Guidelines on Residential Developments for 3rd Level Students' issued by the Department of Education and Science to prove that the proposed accommodation will be let to students during the academic year.

9.1.3 Having considered the foregoing, I would reiterate that it is my opinion that the overall principle of the proposed development is acceptable, however, I would emphasise that further consideration needs to be given to the impact of the proposal both in terms of protecting the residential amenity of adjacent properties and the wider implications associated with the loss of certain amenities / facilities presently available on site to the wider (Brookfield) student population.

9.2 Impact on Residential Amenity:

9.2.1 Concerns have been raised in the grounds of appeal that the proposed development will have a detrimental impact on the residential amenity of neighbouring houses within 'The Grove' housing estate (with particular reference to the appellants' property at No. 15 'The Grove') by reason of overlooking with a consequential loss of privacy, noise, nuisance and general disturbance. In this regard specific reference has been made to the provision of a series of triangularly-shaped bay windows at first floor level within the western / north-western elevation of the existing 'leisure centre' building which will serve a number of bedrooms proposed as part of the change of use of that building.

9.2.2 With regard to the potential for the proposed development to result in the overlooking of adjacent properties, it is apparent from a review of the available information that the applicant is cognisant of the need to avoid any direct overlooking of neighbouring residences, including the rear garden areas / private open space serving same. In response to these concerns the design for the proposed change of use of the existing leisure centre employs a triangularly-shaped bay window configuration to serve the first floor bedroom accommodation along the western side of that building with the glazed elements facing towards the appellants property to be finished in opaque / obscure glass. This approach is similar to that approved in the Board's determination of PA Ref. No. 13/35660 / ABP Ref. No. PL28.242369 wherein the equivalent nursing home bedroom accommodation was proposed to be served by box-type bay windows finished in opaque glass. In my opinion, the aforementioned fenestration treatment for the bedroom accommodation proposed as part of the change of use of the leisure centre is a suitable design response to the constraints posed by the site in that it will achieve a satisfactory balance between the need to avoid direct overlooking of the appellants residence whilst providing an adequate level of amenity / daylighting for the proposed bedrooms in question, although it would probably be necessary to restrict the opening of the western faces of these windows (e.g. by way of a top-hung pivot) in order to avoid any undermining of the purpose of the obscure glazing. Whilst I would acknowledge that there is only a limited separation distance of c. 8m between the western elevation of the leisure centre building and the site boundary with the rear garden area of the neighbouring dwelling house, I am inclined to conclude that the foregoing aspect of the proposal, when taken in combination with the screening offered by the existing mature coniferous planting and fencing along the intervening site boundary, and subject to the imposition of suitable conditions, will not give rise to any unacceptable impact on the residential amenity of the neighbouring dwelling house by reason of overlooking.

9.2.3 In relation to the remainder of the proposed development, including the new free-standing accommodation block to the southwest of the existing hotel / leisure centre complex, it is my opinion that given the separation distances between the new construction and the site boundaries with third party residences, in addition to the difference in ground levels relative to adjacent development, the submitted proposal will not result in the excessive overlooking of surrounding properties.

9.2.4 In respect of the appellants' wider concerns as regards the potential for the proposed development to detract from the residential amenity of neighbouring dwelling houses by reason of the noise, nuisance and general disturbance likely to be associated with the usage of same as student accommodation, it should be noted at the outset that this matter was previously considered in the Board's determination of PA Ref. No. 15/36267 / ABP Ref. No. PL28. 245315 wherein it was held that an earlier proposal to develop 8 No. student accommodation apartments (over two storeys) in a new block to the rear of the site in a manner similar to the subject application would negatively impact on the residents of the wider area by reason of the proximity to private homes, noise and impacts on the general amenities of the area. In my opinion, there is no material difference between the subject proposal to develop the new student accommodation block and that previously refused on appeal under ABP Ref. No. PL28. 245315 and, therefore, there would seem to be no clear rationale to deviate from the Board's already established position. In any event, I am inclined to concur with the reporting inspector in their assessment of ABP Ref. No. PL28. 245315 in that, notwithstanding the submission of the first party that Brookfield Village is a well-managed student housing scheme, given the nature of the accommodation proposed, the likelihood is that the subject proposal as a whole (which provides for a total of 17 No. apartments encompassing 120 No. bed spaces / bedrooms) has the potential to give rise to significant noise, nuisance and general disturbance which would have a corresponding detrimental impact on the existing residential amenities of the occupants of those dwelling houses within 'The Grove' and other private residences adjacent to the subject site.

9.3 Loss of Existing Open Space and Amenity:

9.3.1 The impact of the proposed development on existing amenities within Brookfield Village is effectively twofold in that it will result in the loss of an existing area of open green space which is available for informal amenity purposes (having previously been used in part as tennis courts) whilst also depriving existing students / residents of usage of the leisure centre complex.

Accordingly, it is necessary to consider the foregoing aspects of the proposal both in terms of their respective individual impacts and the wider cumulative implications arising from the loss of those amenities.

9.3.2 With regard to the construction of the new free-standing accommodation block on those lands located to the rear of the existing hotel / leisure centre complex, it is of particular relevance to note that this aspect of the overall development proposal effectively concerns a resubmission of the scheme previously refused permission by the Board on appeal under ABP Ref. No. PL28. 245315 wherein it was held that given the historical use of the lands in question as the primary open space area serving the overall Brookfield Village development, the proposed development would be contrary to Objective 11.7 of the Development Plan which seeks to protect, retain, improve and provide for areas of public open space for recreation and amenity purposes. By way of further explanation, the aforementioned decision of the Board also stated that Objective 11.7 of the Plan provided for a presumption against development on all open space in residential estates in the city, including any green area / public amenity area that formed part of an executed planning permission for development and which was identified for the purposes of recreation/ amenity open space, and also included land which had been habitually used as public open space, to the effect that such lands were to be protected for recreation, open space and amenity purposes.

9.3.3 Whilst I would acknowledge the applicant's submission that the area of open space which forms part of the subject site is not a 'public open space' in that it does not form part of a 'residential estate' (in the conventional sense) and that it has not been 'habitually used' as public open space, from a review of Objective 11.7: *'Public Open Space'*, with particular reference to Part (b), it is clear that the policy objective is not to be interpreted as applying solely to 'public' open space, but rather includes *'any green area / public amenity area that formed part of an executed planning permission for development and was identified for the purposes of recreation / amenity open space'*. Accordingly, I would concur with the Board's interpretation of the policy provision in its determination of ABP Ref. No. PL28. 245315 *'given the historical use of the subject site as the primary open space area serving the overall Brookfield Village development'*. Therefore, on the basis of the foregoing, it is apparent that the subject proposal continues to conflict with the provisions of Objective 11.7 of the Development Plan in that it will result in the loss of a considerable area of open green space which is readily suitable for active amenity purposes, as evidenced by its former use (in part) as tennis courts, by residents of the wider Brookfield

Village development. Indeed, it is my opinion that there is no material difference in this particular aspect of the development proposal from that previously refused on site under ABP Ref. No. PL28. 245315.

9.3.4 In relation to the proposed change of use of the existing leisure centre complex, whilst I would acknowledge that the presence of such a facility within the confines of 'Brookfield Village' is desirable in terms of maintaining the level of amenity services to both existing and future residents of the wider complex of student accommodation, and although the loss of such a facility would be regrettable, I would accept that it is essentially a commercial enterprise and that its continued operation is a matter for the owner / operator. Furthermore, whilst it could be suggested that the availability of such a facility on site would serve to increase the attractiveness of Brookfield to future residents, I would be inclined to concur with the applicant that the paramount consideration in selecting student accommodation is more likely to be related to the proximity of same to the wider university campus with its associated services / amenities. Therefore, having considered the foregoing, and noting that the Board previously approved the change of use of the existing leisure centre to nursing home accommodation (as an extension to the nursing home permitted under PA Ref. Nos. 10/34436 and 11/35072) under PA Ref. No. 13/35660 / ABP Ref. No. PL28.242369, in this instance, I would suggest that the loss of the leisure centre facility in itself would not warrant a refusal of permission.

9.3.5 On balance, it is evident from a review of the available information that the proposed development will ultimately result in the loss of two key recreational amenities / facilities on site which presently serve the wider Brookfield Village student accommodation. In this regard whilst I would accept that permission has previously been granted for the change of use of both the hotel and leisure centre on site to use as nursing home accommodation and that a further grant of permission approved the construction of a two-storey extension to that facility thereby resulting in the loss of both the leisure centre and the area of open space located to the rear of same, it is notable that those applications were considered under the provisions of the previous Development Plan and would not have resulted in any increase in the wider student population (which would probably be more likely to actively avail of the existing amenities). In contrast, it has already been determined on appeal under ABP Ref. No. PL28. 245315 that the construction of a two-storey block of student accommodation to the rear of the existing hotel and leisure centre complex would be contrary to Objective 11.7 of the current Cork City Development Plan and would negatively impact on the residential amenities of the existing residents of Brookfield Village by reason of

the loss of open space. Accordingly, I am inclined to conclude that notwithstanding the proposed additional amenity provision through the reduction in the extent of car parking and the reservation of a corridor for the future development of a riverside walking route, the combined loss of both the existing open space and the leisure centre, when taken in conjunction with the likely additional demand for such facilities as would be associated with the proposed increase in the student population on site, would be such as to have a significant negative impact on the existing residential amenities of residents of Brookfield Village and thus would seriously injure the residential and general amenities of the area and be contrary to the proper planning and sustainable development of the area.

9.4 Flooding Implications:

9.4.1 The proposed development site is bounded by the Curragheen River to the immediate north and is located in an area which has historically been subject to flood events as evidenced by the applicant's response to Question No. 18 of the planning application form wherein it has been declared that part of the overall 'Brookfield Village' complex flooded during the extreme weather conditions and flood event of November, 2009. Therefore, in view of the foregoing, I would refer the Board to Chapter 12: *'Environmental Infrastructure and Management'* of the City Development Plan and in particular to Objective 12.15: *'Restrictions on Development in Flood Risk Areas'* wherein it is stated that development in identified flood risk areas, including floodplains, will be restricted except in those instances where the proposal satisfies the Justification Test as outlined in 'The Planning System and Flood Risk Management: Guidelines for Planning Authorities, 2009'. It should also be noted that Objective 12.17: *'Flood Impact Assessment'* of the Plan requires planning applications for significant developments impacting on flood risk areas to be accompanied by a Flood Impact Assessment identifying the potential loss of floodplain storage and detailing proposals for the storage or attenuation (e.g. SUDS) of run-off discharges (including foul drains) in order to ensure that the development proposed does not increase the flood risk in the relevant catchment. Accordingly, the subject application has been accompanied by a site specific Flood Risk Assessment which has been prepared pursuant to the requirements of the City Development Plan and the *'Planning System and Flood Risk Management, Guidelines for Planning Authorities'* published by the Department of the Environment, Heritage and Local Government in November, 2009.

9.4.2 From a review of the submitted Flood Risk Assessment, there is a clear acknowledgement that the proposed development site is situated within a known

floodplain with flood events having previously been recorded on site (or in the immediate vicinity of same) in 1986, 1990, 2000 & 2009. Notably, a peak flood level of 5.206m was recorded in the vicinity of the site during the November, 2009 flood event which would equate to a height approximately 0.5m over ground level. The FRA proceeds to refer to the Lee Catchment Flood Risk Assessment and Management Study (Lee CFRAMS) for Cork City (as published in 2010), which utilised hydraulic modelling to produce a variety of flood maps for the area, and specifically references the fluvial flood mapping which details the extent of flood events of various AEPs for both current and Mid-Range Future Scenarios (MRFS). In this respect I would advise the Board that the proposed development site is located within the current 0.1% AEP flood extent which would equate to 'Flood Zone B' as defined by the 'Planning System and Flood Risk Management, Guidelines for Planning Authorities'. It is also of particular relevance to note that the flood water level for a 0.1% (1 in 1,000) flood event was calculated as 5.03m OD and that this level was exceeded by +0.176m during the 19th November, 2009 event when a flood water level of 5.206 was recorded. Furthermore, it should be noted that the mapping for the Mid-Range Future Scenarios indicates that the majority of the site will be inundated with flooding for the 1% AEP (1 in 100).

9.4.3 Having established that the application site is located within Flood Zone 'B' as defined by the FRA Guidelines i.e. where the probability of flooding from rivers is considered to be moderate (between 0.1% or 1 in 1,000 and 1% or 1 in 100 for river flooding), I would refer the Board to Table 3.1 of the Guidelines which sets out the classification of various land uses / development types which are either highly vulnerable, less vulnerable or water-compatible and in this respect it is noteworthy that the proposed student accommodation (i.e. 'student halls of residence') can be classified as a 'Highly Vulnerable Development'. Accordingly, in view of the site's location within the 1 in 1,000 year flood level (Flood Zone 'B') and the nature of the proposed development, it is necessary to apply the Justification Test as set out in Box 5.1 of the Guidelines as follows:

- (1) *The subject lands have been zoned or otherwise designated for the particular use or form of development in an operative development plan, which has been adopted or varied taking account of the Guidelines:*

The proposed development site is zoned as '*Residential, Local Services and Institutional Uses*' in the Cork City Development Plan, 2015 with the stated land use zoning objective '*To protect and provide for residential uses, local services, institutional uses, and civic uses, having regard to*

employment policies outlined in Chapter 3'. Accordingly, the proposed development complies with the wider land use zoning and development objectives applicable to the site and thus satisfies this criterion of the Justification Test.

(2) The proposal has been subject to an appropriate flood risk assessment that demonstrates:

i) The development proposed will not increase flood risk elsewhere and, if practicable, will reduce overall flood risk:

With regard to the potential for the proposed development to increase the risk of flooding elsewhere, it is of relevance to note that there are two distinct aspects to the submitted proposal.

With regard to the proposed change of use of the existing hotel and leisure centre complex, Section 5.28 of the FRA Guidelines (as amended by Circular PL 2/2014) states that most changes of use of existing buildings are unlikely to raise significant flooding issues (unless they obstruct important flow paths, introduce a significant additional number of people into flood risk areas or entail the storage of hazardous substances) and that *'Since such applications concern existing buildings or developed areas, the sequential approach cannot be used to locate them in lower-risk areas and the Justification Test will not apply'*, although it is acknowledged that any such applications should be accompanied by a commensurate assessment of the flood risk to demonstrate that they would not have an adverse impact or impede access to a watercourse, floodplain or flood protection and management facilities. Accordingly, the proposed change of use of the existing buildings on site would seem unlikely to result in any increase in flood risk elsewhere.

In relation to the proposed construction of the new block of student accommodation on the undeveloped lands / open space to the rear (south) to the existing hotel and leisure centre complex, I would advise the Board that this building will be constructed using stilt foundations in a manner directly comparable to that previously approved on appeal under PA Ref. No. 11/35072 / ABP Ref. No. PL28.240044 and thus the undeveloped grassed area within the

site will generally remain intact (*N.B.* The finished floor level of the proposed ground floor accommodation, and that of the change of use of the leisure centre, will be set at 5.7mOD i.e. above the predicted flood water level for a 0.1% (1 in 1,000) flood event at 5.03m OD and also in excess of the flood level experienced in November, 2009 when a flood water level of 5.206m was recorded). In that instance the applicant contended that the development proposed would not impact on the flood regime either within the site or elsewhere and that there would be no impact on the floodplain / storage capacity of the site. Notably, the reporting inspector concurred with that assessment and concluded that the use of stilt foundations would mean that the proposed development would not substantially increase the impermeable area discharging to the surface water sewer and would not, therefore, represent a risk to the flood regime in the area. This subsequently culminated in the decision of the Board to grant permission for ABP Ref. No. PL28.240044.

In addition to the foregoing, the subject application has been accompanied by proposals for stormwater attenuation (including an attenuation tank) which have been prepared pursuant to a SUDS strategy and are appended to the submitted Flood Risk Assessment. Whilst I would accept that these proposals were seemingly prepared in respect of an earlier development proposal on site, it is my opinion that the principle of this surface water management arrangement remains both applicable and appropriate to the development as proposed.

Therefore, on balance, it would appear that the proposed development will not give rise to any significant displacement of flood waters and will not unduly impact on the existing flood regime.

- ii) *The development proposal includes measures to minimise flood risk to people, property, the economy and the environment as far as reasonably possible:*

In its earlier decisions to grant permission both for the construction of a two-storey extension to the nursing home previously permitted under PA Ref. No. 10/34436 and to approve the change of use of the Brookfield Leisure Centre to use as a nursing home (under ABP

Ref. Nos. PL28.240044 & PL28.242369 respectively), the Board considered the risk to people, property, the economy and the environment. It is further acknowledged that the proposed development involves the siting of student accommodation, which is a highly vulnerable use, within 'Flood Zone B' of the Curragheen River flood plain and that previous inspector's reports have identified the potential for flooding of the existing buildings on site and the possibility of access / egress routes being cut off in a flood event. Notably, the permitted nursing home development addressed the identified potential impacts by increasing the finished floor level of the proposed construction and the change of use of the leisure centre building to 5.7mOD and by relocating the access, including emergency access, in order to avoid any flood risk zones.

In relation to the proposed change of use of the leisure centre building and the construction of the new student accommodation block, the finished floor level of both these aspects of the overall development is detailed in the submitted drawings as 5.7mOD which provides for an approximate freeboard of 500mm above the recorded flood water level at the site during the flood event of November 2009. The Flood Risk Assessment further states that the Mid-Range Future Scenario 1% AEP flood event water level in the Curragheen River adjacent to the subject site is 5.15mOD and that with a freeboard allowance of 0.5m, this gives the minimum required finished floor level of the development as 5.7mOD (pursuant to the requirements of the FRA guideline) which is also 0.06m above the MRFS 0.1% AEP flood event water level of 5.64mOD.

The existing ground level at the site is between approximately 4.5m and 4.7m in the area of the proposed building and thus the proposed construction of the building on piled foundations to achieve a finished floor level of 5.7mOD will move it out of the flood risk zone in a vertical direction.

With regard to the change of use of the existing hotel building which has a ground floor level of 4.8mOD, the applicant has submitted that it is impractical to raise the floor level of same due to the constraints posed by the floor-to-ceiling height and that as this is an existing building it is unlikely to give rise to flooding issues.

In addition to the foregoing, the FRA states that the mitigation measures previously prepared in respect of the former nursing home proposal on site could be incorporated into the proposed student accommodation development and in this regard I note the contents of 'Appendix 'C': Control Measures' of the FRA which includes details of dry and wet flood proofing measures for the new construction and the maintenance of a means of access for emergency services. The preparation of a detailed flood emergency flood plan which incorporates stringent evacuation plans for the proposed development is also recommended and an indicative / preliminary flood emergency & operation plan has been included in Appendix 'D' of the FRA.

- iii) The development proposed includes measures to ensure that residual risks to the area and / or development can be managed to an acceptable level as regards the adequacy of existing flood protection measures or the design, implementation and funding of any future flood risk management measures and provisions for emergency services access:*

The FRA states that the subject proposal includes for adequate mitigation measures to manage any residual risks and in this regard I would refer the Board to my earlier comments in relation to the maintenance of emergency access and evacuation plans etc.

- iv) The development proposed addresses the above in a manner that is also compatible with the achievement of wider planning objectives in relation to development of good urban design and vibrant and active streetscapes.*

The proposed development site is located within the confines of the 'Brookfield Village Student Accommodation and Leisure Centre Complex' and, in my opinion, the overall layout and design of the subject proposal is compatible with the achievement of the wider planning objectives for the area.

9.4.4 Having considered the foregoing, and following a review of the available information, it is my opinion, on balance, that the submitted proposal satisfies the requirements of the Justification Test as set out in the 'Planning System and Flood Risk Management, Guidelines for Planning Authorities'.

9.5 Appropriate Assessment:

9.5.1 From a review of the available mapping, it is apparent that whilst the proposed development site is not located within any Natura 2000 designation, it adjoins the Curragheen River which flows into the South Channel of the River Lee, which in turn flows into the Cork Harbour Special Protection Area (Site Code: 04030) approximately 7.5km east and the Great Island Channel Special Area of Conservation (Site Code: 1058) at a distance of 12km east. Having regard to the overall design, nature and intended use of the proposed development, the nature of the receiving environment, the availability of public services, and the separation distance relative to the nearest designated sites, it is my opinion that the proposed development will not alter the flood storage capacity of the site or give rise to emissions significantly different from the existing use, and therefore, that the proposed development, either individually and in combination with other plans or projects would not be likely to have a significant effect on the European sites identified above in view of the sites' conservation objectives and an appropriate assessment (and submission of a NIS) is not therefore required.

9.6 Other Issues:

9.6.1 Built Heritage Considerations:

9.6.1.1 Although the proposed development site is located on the fringe of the 'University College Cork (UCC), College Road and Magazine Road Proposed Architectural Conservation Area (ACA)', given its location to the rear of the 'Brookfield Village Student Accommodation and Leisure Centre Complex' and the prevailing pattern of development which is characterised by a series of conventionally designed accommodation blocks, I am satisfied that the proposed development will not detract from the architectural / built heritage of the surrounding area.

9.7 First Party Appeal:

9.7.1 In respect of the first party appeal against the inclusion of Condition No. 2 in the notification of the decision to grant permission as issued by the Planning Authority, with particular reference to the requirement to omit the proposed change of use of the existing leisure centre to student accommodation, I would refer the Board to my earlier assessment of the wider proposal in terms of its potential impact on the residential amenity of surrounding properties wherein I have concluded that although said aspect of the proposed development will not give rise to any unacceptable impact on the residential amenity of the neighbouring dwelling house by reason of overlooking (subject to the imposition

of suitable conditions), I would nevertheless have serious concerns that the subject proposal as a whole (which provides for a total of 17 No. apartments encompassing 120 No. bed spaces / bedrooms) has the potential to give rise to significant noise, nuisance and general disturbance which would have a corresponding detrimental impact on the existing residential amenities of the occupants of those dwelling houses within 'The Grove' and other private residences adjacent to the subject site.

10.0 RECOMMENDATION

Having regard to the foregoing, I recommend that the decision of the Planning Authority be overturned in this instance and that permission be refused for the proposed development for the reasons and considerations set out below:

Reasons and Considerations:

1. Having regard to the provisions of the Cork City Development Plan, 2015 – 2021, the pattern of existing and permitted development in the vicinity and area, and having regard to the submissions made in connection with the application and the appeal, and notwithstanding the zoning for the site, it is considered that the proposed development would be contrary to the policy objectives of the planning authority as set out in the Development Plan. It is considered that the development, if permitted, would contravene Objective 11.7, as set out in the Development Plan, which deals with Public Open Space and where it is the stated objective of the Plan, amongst others, to protect, retain, improve and provide for areas of public open space for recreation and amenity purposes. The objective further provides that there will be presumption against development on all open space in residential estates in the city, including any green area / public amenity area that formed part of an executed planning permission for development and was identified for the purposes of recreation / amenity open space, and also including land which has been habitually used as public open space. Such lands shall be protected for recreation, open space and amenity purposes. Given the historical use of part of the subject site as the primary open space area serving the overall Brookfield Village development, it is considered that the proposed development would be contrary to this Development Plan Objective and would, therefore, be contrary to the proper planning and sustainable development of the area.

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2. Having regard to the backland location of the proposed free-standing student accommodation building, together with the differing ground levels, the Board is not satisfied that the development, if permitted, would result in appropriate levels of residential or general amenity for the future residents of the building. Furthermore, it is considered that the development would negatively impact on existing residential amenities for existing residents of Brookfield Village by reason of the loss of public open space and the residents of the wider area, by reason of proximity to private homes, noise and impacts on the general amenities of the area. The proposed development would, therefore, seriously injure the residential and general amenities of the area and would be contrary to the proper planning and sustainable development of the area.

Signed: _____

Robert Speer
Inspectorate

Date: _____