



An
Bord
Pleanála

Board Direction
BD-002818-19
ABP-303233-18

The submissions on this file and the Inspector's report were considered at a Board meeting held on 15/04/2019.

The Board decided to grant permission generally in accordance with the Inspector's recommendation, for the following reasons and considerations, and subject to the following conditions.

Reasons and Considerations

Having regard to the location of the site within the settlement boundary of Fermoy, to the commercial zoning objective for the site as set out in the Fermoy Town Development Plan, 2009 - 2015, to the National Planning Framework, 2018 – 2040, to the established Protected Structure and recorded monument on the site, and having regard to the established pattern of development in the vicinity, and to the proposed uses, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the visual amenities of the area or of property in the vicinity, would not have a detrimental impact on architectural heritage (including the setting of the protected structure) or the environment, and would be acceptable in terms of pedestrian and traffic safety. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

Appropriate Assessment:

Appropriate Assessment Stage 1

The Board considered the Screening Report for Appropriate Assessment, the Natura Impact Assessment and all the other relevant submissions and carried out both an appropriate assessment screening exercise and an appropriate assessment in relation to the potential effects of the proposed development on designated European Sites.

The Board agreed with the screening assessment and conclusion carried out in the Inspector's report that the Blackwater River SAC (site code 002170), is the only European Site in respect of which the proposed development has the potential to have a significant effect.

Appropriate Assessment Stage 2

The Board considered the Natura Impact Statement and all other relevant submissions and carried out an appropriate assessment of the implications of the proposed development for a European Site, namely, the Blackwater River SAC (site code 002170), in view of the site's Conservation Objectives. The Board considered that the information before it was adequate to allow the carrying out of an appropriate assessment.

In completing the appropriate assessment, the Board considered, in particular, the following:

- i. the likely direct and indirect impacts arising from the proposed development both individually or in combination with other plans or projects,
- ii. the mitigation measures which are included as part of the current proposal, and
- iii. the conservation objectives for the European Site.

In completing the appropriate assessment, the Board accepted and adopted the appropriate assessment carried out in the Inspector's report in respect of the potential effects of the proposed development on the aforementioned European Site, having regard to the site's Conservation Objectives.

In overall conclusion, the Board was satisfied that the proposed development, by itself or in combination with other plans or projects, would not adversely affect the integrity of the European Site, in view of the site's Conservation Objectives.

Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, and as amended by Further Information submitted to Cork County Council on the 27th September 2018, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. (a) Goods available for sale at the dispensary, shall be confined to items related to medical prescriptions, as per the detail set out by the applicant in the Further Information submitted to the planning authority on 27th September 2018. No other goods shall be sold without the benefit of a further planning permission.

(b) Goods available for sale at the medical aids area, shall be within the broad range as set out by the applicant in the Further Information submitted to the planning authority on 27th September 2018. For the avoidance of doubt, the full range of medical aids goods for sale, shall be agreed in writing with the planning authority, prior to the occupation of the proposed development. No other goods shall be sold without the benefit of a further planning permission.

(c) The dispensary and the medical aids area shall be operated in association with the operation of the primary care centre, and the opening hours of the dispensary and medical aids area shall not extend beyond those of the primary care centre on any day.

Reason: In the interests of clarity as to the permitted uses on site.

3. The mitigation and monitoring measures outlined in Table 8 of the Natura Impact Statement submitted with this application shall be carried out in full, except where otherwise required by conditions attached to this permission.

Reason: To protect the environment.

4.

- a. A conservation expert shall be employed to manage, monitor and implement the works on the site and to ensure adequate protection of the retained and historic fabric during the works. In this regard, all permitted works shall be designed to cause minimum interference to the retained building and facades structure and/or fabric
- b. All repair works to the protected structure shall be carried out in accordance with best conservation practice as detailed in the application and the Architectural Heritage Protection Guidelines for Planning Authorities issued by the Department of Environment, Heritage and Local Government in 2011. The repair works shall retain the maximum amount of surviving historic fabric in situ, including structural elements, and shall be designed to cause minimum interference to the building structure and/or fabric. Items that have to be removed for repair shall be recorded prior to removal, catalogued and numbered to allow for authentic re-instatement.

Reason: To ensure that the integrity of the retained structures is maintained and that the structures are protected from unnecessary damage or loss of

fabric.

5. A final Construction Environmental Management Plan (CEMP) shall be submitted for approval by the planning authority prior to the commencement of development. The CEMP shall include programmes for environmental and ecological monitoring and supervision, as appropriate to the site – and shall provide for the presence of an Ecological Clerk of Works to be presenting during demolition, tree removal, ground clearance and installation of the surface water drainage system. The plan shall be prepared to accord with recognised standard best practice – CIRIA Guidance No. C532 – Control of Water Pollution From Construction Sites. All works on site shall be implemented in accordance with the final agreed plan. The plan shall incorporate an Invasive Species Management Plan if found to be required on foot of follow up invasive species survey to be completed prior to commencement of development.

Reason: In the interest of ensuring the protection of water quality in the receiving environment.

6. Otter and bat survey work will be completed in accordance with the procedure set out in in the Ecological Impact Assessment prior to the commencement of construction works. The results of pre-construction survey shall be submitted to the planning authority. The applicants shall be responsible for obtaining any derogation licence, should same be required to permit the excavation of holts or other sites used by this species.

Reason: To avoid disturbance to Otter, a strictly protected species listed on Annex IV of the Habitats Directive.

7. The applicant shall submit details and material specifications of all proposed signage, utilities and security measures required to the exterior of all structures for the written agreement of the planning authority.

Reason: In the interest of preserving the architectural heritage.

8. No signage, lighting, advertising boards, utilities, security measures shall be erected to the exterior of the existing mill building without the benefit of planning permission and/or declaration of exempted development as relevant.

Reason: In the interest of preserving the character of the protected structure.

9. The service entrance to the west of the development shall be used solely as a pedestrian entrance and for the movement of refuse bins. While refuse collection may be facilitated on the public road a designated loading bay will not be permitted. No refuse bins shall be stored on the public road or footpath.

Reason: In the interest of public safety and to safeguard the amenities of the area.

10. Details of flood management and contingency plans, in relation to flood risk management and evacuation procedures in the event of a flooding event, shall be agreed with the planning authority prior to the occupancy of the development.

Reason: In the interest of public safety.

11. Details including samples of the materials, colours and textures of all the external finishes, signage and lighting to the proposed buildings shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

12. Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health and to ensure a proper standard of development.

13. That all necessary measures be taken by the contractor to prevent spillage or deposit of clay, rubble or other debris on adjoining roads during the course of the works.

Reason: To protect the amenities of the area.

14. The internal road serving the proposed development, including turning bays, junctions, parking areas, footpaths and kerbs, shall comply with the detailed standards of the planning authority for such road works.

Reason: In the interest of amenity and of traffic and pedestrian safety.

15. A comprehensive landscaping scheme shall be submitted to and agreed in writing with the planning authority, prior to commencement of development. This scheme shall include the following:-

- (a) Proposed locations of trees and other landscape planting in the development, including details of proposed species and settings;
- (b) Detail of all boundary treatment;
- (c) The boundary treatment and landscaping shall be carried out in accordance with the agreed scheme.

Reason: In the interest of protecting the character of the area.

16. The developer shall facilitate the preservation, recording and protection of archaeological materials or features that may exist within the site. In this regard, the developer shall –
- (a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development,
 - (b) employ a suitably-qualified archaeologist who shall monitor all site investigations and other excavation works, and
 - (c) provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove. In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.

Reason: In order to conserve the archaeological heritage of the site and to secure the preservation and protection of any remains that may exist within the site.

17. Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: In order to safeguard the [residential] amenities of property in the vicinity.

18. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including, noise management measures and off-site disposal of construction/demolition waste.

Reason: In the interests of public safety and residential amenity.

19. Prior to the commencement of development, the applicant shall submit full details of the proposed public lighting, within the development for written agreement prior to the commencement of development.

Reason: In the interests of public safety and residential amenity.

20. Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the “Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects”, published by the Department of the Environment, Heritage and Local Government in July 2006. The plan shall include details of waste to be generated during site clearance and construction phases, and details of the methods and locations to be employed for the prevention, minimisation, recovery and disposal of this material in accordance with the provision of the Waste Management Plan for the Region in which the site is situated.

Reason: In the interest of sustainable waste management

21. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be

agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission

Board Member

Date: 15/04/2019

Chris McGarry