



An
Bord
Pleanála

Board Direction
BD-005251-20
ABP-304028-19

The submissions on this file and the Inspector's report were considered at a Board meeting held on 26/02/2020.

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

In coming to its decision, the Board had regard to the following:

(a) EU legislation including in particular:

- EU Directive 2014/52/EU amending Directive 2011/92/EU (EIA Directive) on the assessment of the effects of certain public and private projects on the environment,
- Directive 92/43/EEC (Habitats Directive) and Directive 79/409/EEC as amended by 2009/147/EC (Birds Directives) which set out the requirements for Conservation of Natural Habitats and of Fauna and Flora.

(b) National Legislation including in particular:

- Section 175 of the Planning and Development Act 2000 (as amended) which sets out the provisions in relation to local authority projects which are subject to Environmental Impact Assessment (EIA) and Appropriate Assessment (AA)

(c) National Policy and Guidance including in particular:

- National Planning Framework which cites the implementation of the Limerick 2030 economic strategy as a key future growth enabler and .

- Architectural Heritage Protection: Guidelines for Planning Authorities, 2011,
- Urban Development and Building Heights: Guidelines for Planning Authorities, December 2018 and Specific Planning Policy Requirement 1 to support increased building height in locations with good public transport accessibility, particularly town/city cores to secure the objectives of the National Planning Framework and Regional Spatial and Economic Strategies.

(d) the Mid West Regional Planning Guidelines 2010-2022

(e) Local Planning Policy including in particular

- The provisions of the Limerick City Development Plan, 2010, as amended, including Variation No.4 adopted in January 2015 comprising the incorporation of the Limerick 2030 Economic and Spatial Plan and policy CC.5 which seeks to secure the development of the Opera Centre in support of the objectives set out in Limerick 2030.

(f) The following matters:

- the nature, scale and design of the proposed works as set out in the application for approval and the existing character and pattern of development in the area and the city centre location of the site,
- the documentation including the environmental impact assessment report, the natura impact statement and associated documentation submitted with the application and by way of further information and the range of mitigation and monitoring measures proposed,
- the submissions and observations made to An Bord Pleanála in connection with the application,
- the likely consequences for the environment and the proper planning and sustainable development of the area in which it is proposed to carry out the proposed development and the likely significant effects of the proposed development on European sites, and
- the report and recommendation of the inspector.

Appropriate Assessment: Stage 1:

The Board agreed with and adopted the screening assessment carried out and conclusions reached in the Inspector's report that Lower Shannon River SAC (site code 002165) and River Shannon and River Fergus Estuaries SPA (site code 04077) are the only European Sites 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 associated documentation submitted with the application, the mitigation measures contained therein, the submissions and observations on file, the oral hearing submissions and the Inspector's assessment. The Board completed an Appropriate Assessment of the implications of the proposed development for the aforementioned European Sites in view of the sites' 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 Sites.

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 Sites, having regard to the sites' 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 Sites, in view of the sites' conservation objectives.

Environmental Impact Assessment

The Board completed an environmental impact assessment of the proposed development, taking into account:

- (a) the nature, scale and extent of the proposed development;
- (b) the Environmental Impact Assessment Report and associated documentation submitted in support of the application;
- (c) the submissions from the observers and prescribed bodies in the course of the application and the submissions of the applicant, observers and prescribed bodies during the oral hearing, and
- (d) the Inspector's report

The Board agreed with the summary of the results of the consultations and information gathered in the course of the Environmental Impact Assessment and the examination of the information contained in the Environmental Impact Assessment Report and associated documentation submitted by the applicant and submissions made in the course of the application, as set out in the Inspector's report. The Board was satisfied that the Inspector's report sets out how these various environmental issues were addressed in the examination and recommendation and are incorporated into the Board's decision.

Reason Conclusions on the Significant Effects:

The Board considered that the Environmental Impact Assessment Report, supported by the documentation submitted by the applicant, provided information which is reasonable and sufficient to allow the Board to reach a reasoned conclusion on the significant effects of the proposed development on the environment, taking into account current knowledge and methods of assessment. The Board was satisfied that the information contained in the Environmental Impact Assessment Report is up to date and complies with the provisions of EU Directive 2014/52/EU, amending Directive 2011/92/EU.

The Board considered that the main significant effects both positive and negative of the proposed development on the environment are:

- **Population and human health:** Potential positive impacts through the redevelopment of a brownfield and underutilised city centre site for employment, cultural and amenity spaces that will improve the townscape and visual setting. Impacts arising from noise, dust, traffic, excavation and demolition impacts during construction will be mitigated by a Construction Management Plan including traffic management measures. There will be negative impacts on existing buildings in the vicinity of the site arising from the reduction in access to daylight and sunlight and increase in overshadowing which will not be mitigated or otherwise addressed by condition.
- **Landscape:** The proposed development entailing modern design interventions and a tall building would have a significant impact on the urban and visual character of the area. This impact is considered acceptable given the policy provisions for the site as set out in the current Limerick City Development Plan and Limerick 2030 Plan and the identification of the site for redevelopment to a certain scale and strong presence to the public realm. No mitigation measures are proposed on the basis of the beneficial and/or positive impact.
- **Cultural heritage:** Potential negative impacts arising from demolition of some built fabric on the site and modern design interventions to protected structures including the redevelopment and extension of the former Town Hall and relocation of the Bruce House doorcase at 6 Rutland Street. Mitigation measures are detailed including building specific measures for the buildings to be retained and refurbished. There will be potential positive impacts on the cultural heritage of Limerick city centre arising from the restoration, extension and reuse of currently vacant or underutilised historic buildings including a number of protected structures.
- **Biodiversity:** There will be disturbance and loss of the common pipistrelle bat roost site at No. 9 Rutland Street. Mitigation measures include a 'bat brick' and a 'bat tile' in the design of Nos. 4 & 5 Rutland Street which is located close to the existing roost site in 9 Rutland Street and implementation

of a Construction and Environmental Management Plan. There is potential for bird collision with the proposed tall building. A green flashing light to repel birds is proposed in mitigation.

The Board completed an environmental impact assessment in relation to the proposed development. Notwithstanding the conclusion reached in respect of the inability of the proposed measures to fully mitigate the impact on existing buildings in the vicinity of the site arising from the reduction in access to daylight and sunlight and increase in overshadowing, the Board considered that the environmental effects would not justify a reason for refusal of planning permission having regard to the overall benefits of the proposed development. The Board otherwise concluded that subject to the implementation of the mitigation measures referred to above, including proposed monitoring as appropriate and subject to compliance with the conditions set out below, by itself and in combination with other development in the vicinity would be acceptable. In doing so, the Board adopted the report and conclusions set out in the Inspector's report.

Proper Planning and Sustainable Development

The Board considered that subject to compliance with the conditions set out below the proposed development would:

- secure the redevelopment of strategic, underutilised urban land in a prime city centre location and will assist in the redevelopment and rejuvenation of this part of Limerick City Centre in accordance with the policies and objectives of the current Limerick City Development Plan
- would involve the retention and sensitive re-use of the bulk of the historic building fabric along the periphery of the site thereby securing its future.
- would make a positive contribution to the urban character of the area
- would not seriously injure the amenities of development in the area and the character and appearance of protected structures in the vicinity.
- would not have a significant and detrimental impact on any important views and vistas within the city, including in particular from the west on the opposite side of the River Shannon and from the north on King's Island.

The proposed development would therefore be in accordance with the proper planning and sustainable development of the area.

Conditions

1. The proposed development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further details and particulars received by An Bord Pleanála on the 23rd day of September, 2019, except as may otherwise be required in order to comply with the following conditions. Where any such conditions require details to be prepared by or on behalf of the local authority prior to commencement of development, these details shall be placed on the file and retained as part of the public record.

Reason: In the interest of clarity.

2. The period during which the proposed development hereby permitted may be carried out shall be ten years from the date of this order.

Reason: Having regard to the nature and extent of the proposed development, the Board considered it appropriate to specify a period of validity of this permission in excess of five years.

3. All mitigation and environmental commitments identified in Table 20.1 of Volume II of the Environmental Impact Assessment Report shall be implemented in full as part of the proposed development, except as may otherwise be required in order to comply with the following conditions. All monitoring measures identified in Table 20.1 of Volume II of the Environmental Impact Assessment Report shall be implemented in full as part of the proposed development, except as may otherwise be required in order to comply with the following conditions.

Reason: In the interest of development control, public information and clarity.

4. All mitigation and environmental commitments identified in the Natura Impact Statement (Section 9) shall be implemented in full as part of the proposed development, except as may otherwise be required in order to comply with the following conditions.

Reason: In the interest of development control, public information and clarity.

5. The proposed development shall be carried out in accordance with the phasing plan as outlined in the documentation submitted with the planning application.

Reason: In the interest of clarity.

6. No additional development shall take place above roof parapet level on any building, including lift motor enclosures, air handling equipment, storage tanks, ducts or other external plant, telecommunication aerials, antennas or equipment, other than that shown on drawings as submitted with the planning application unless authorised by a further grant of planning permission.

Reason: To protect the visual amenities of the area.

7. Details of the materials, colours and textures of all the external finishes to the proposed buildings and open spaces shall be prepared by the local authority prior to commencement of development and shall be placed on the file and retained as part of the public record.

Reason: In the interest of the visual amenities of the area.

8. Details of signage for the proposed commercial units shall be prepared by the local authority prior to commencement of development. Thereafter, and notwithstanding the provisions of the Planning and Development Regulations, 2001, or any statutory provision amending or replacing them, no further advertisement signs (including any signs installed to be visible through windows), advertisement structures, banners, canopies, flags, or other projecting elements shall be displayed

or erected on any of the proposed buildings or within the curtilage of the site, unless authorised by a further grant of planning permission.

Reason: In the interest of visual amenity and orderly development and to permit any such development to be assessed through the statutory planning process.

9. No external security shutters shall be erected on any of the commercial premises fronting onto public roads and public spaces, unless authorised by a further grant of planning permission. Details of all internal shutters shall be prepared by the local authority prior to commencement of development and shall be placed on the file and retained as part of the public record.

Reason: In the interest of visual amenity.

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

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

11. A minimum of 10% of the proposed car parking spaces in the basement car park shall be provided with electrical connection points to allow for functional electric vehicle charging. The remaining car parking spaces in the basement car park shall be fitted with ducting for electrical connection points to allow for future fitout of charging points.

Reason: In the interest of sustainable transport.

12. The management and maintenance of the proposed development, following completion, shall be the responsibility of a legally constituted management company which shall be established by the local authority. A management scheme, providing adequate measures for the future maintenance of the proposed development, including the external fabric of the buildings, open spaces, landscaping, roads, paths, parking areas, lighting, waste storage facilities and sanitary services, shall be prepared by the local authority prior to commencement of development and shall be placed on the file and retained as part of the public record.

Reason: To provide for the future maintenance of this development in the interest of visual amenity.

13. Site development and construction works shall be confined to the hours of 0700 to 1800 on Mondays to Fridays, excluding bank holidays, and 0800 to 1400 hours on Saturdays and not at all on Sundays. Deviation from these times shall only be allowed in exceptional circumstances.

Reason: In the interest of residential amenity and clarity.

14. Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be prepared by the local authority prior to commencement of development and shall be placed on the file and retained as part of the public record. 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 provisions of the Waste Management Plan for the Limerick/Clare/Kerry Region.

Reason: In the interest of sustainable waste management.

15. The construction of the proposed development shall be managed in accordance with a Construction Management Plan which shall be prepared by the local authority prior to commencement of development and shall be placed on the file and retained as part of the public record. This plan shall provide details of intended construction practice for the proposed development, including noise management measures.

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

16. A plan containing details for the management and safe disposal of all waste (and, in particular, recyclable materials) within the proposed development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials, and for the ongoing operation of these facilities, shall be prepared by the local authority prior to commencement of development and shall be placed on the file and retained as part of the public record.

Reason: To provide for the appropriate management of waste and, in particular recyclable materials, in the interest of protecting the environment.

Note: In deciding not to accept the Inspectors recommendation to revise the elevational treatment of Parcel 1 on Ellen Street the Board was satisfied that the architectural approach respected the architectural character of the adjoining building and would not detract from its character of setting.

Note: In deciding not to accept the Inspectors recommendation to provide an additional pedestrian crossing point at Patricks Street/ Rutland Street, the Board was satisfied that the two crossing points already in existence were sufficient .

Board Member

Date: 26/02/2020

Paul Hyde