



An
Bord
Pleanála

Board Direction
BD-007727-21
ABP-308596-20

The submissions on this file and the Inspector's report were considered at a Board meeting held on 18/03/2021.

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

The Board had regard to:

(a) the National Planning Framework issued by the Department of Housing, Planning and Local Government in February 2018, which seeks more balanced and concentrated growth and targets a significant proportion of future urban development on infill/brownfield development sites within the built footprint of existing urban areas,

(b) the objectives of the Cork Metropolitan Area Strategic Plan as set out in the Regional Spatial and Economic Strategy for the Southern Region to strengthen the consolidation and regeneration of Cork City Centre and to strengthen the role of the Cork Metropolitan Area as an international location of scale, a complement to Dublin and a primary driver of economic and population growth in the Southern Region,

(c) the 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 Architectural Heritage Protection Guidelines for Planning Authorities, 2011,

(e) the site's location in Cork City Centre on lands with zoning objective ZO-02 'City Centre Commercial Core Area' which seeks to support the retention and expansion of a wide range of commercial, cultural, leisure and residential uses in the commercial core area (apart from comparison retail uses) and zoning objective ZO-17 'Quayside Amenity Area' which seeks to protect and preserve quayside, natural heritage and river amenities through the provision of a public quayside area including walkway,

(f) the site's location within the City Harbour Interchange Area which is one of two areas identified in the City Development Plan which could have transformational impacts on the City Centre,

(g) the character and pattern of existing and permitted development in the area,

(h) the layout, form, mass, height, materials, finishes, design detail, and the public realm provision and enhancements,

(i) the updated Environmental Impact Assessment Report dated February 2020 submitted,

(j) the Natura Impact Statement submitted,

(k) the appeals and observations made in connection with the planning application, and

(l) the report of the Inspector.

Appropriate Assessment Screening: Stage 1

The Board considered the Natura Impact Statement 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 and adopted the screening assessment carried out and conclusions reached in the Inspector's report that the Cork Harbour SPA (site code: 004030) and Great Island Channel SAC (site code: 001058) 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, 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 planning application;
- (c) the submissions from the planning authority, prescribed bodies, the appellants and the observers in the course of the application; and
- (d) the Inspector's report.

The Board considered that the Environmental Impact Assessment Report, supported by the documentation submitted by the applicant, adequately considers alternatives to the proposed development and identifies and describes adequately the direct, indirect, secondary and cumulative effects of the proposed development on the environment.

The Board agreed with the examination, as set out in the Inspector's report, 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.

The Board considered, and agreed with the Inspector's reasoned conclusions, that the main significant direct and indirect effects of the proposed development on the environment are as follows:

- Population and Human Health: Positive impacts through the re-development of a brownfield and under-utilised city centre site for employment, cultural and amenity spaces that will improve the townscape and visual setting in addition to job creation and spin off benefits. Potential negative impacts to human beings arising from noise, dust, traffic, excavation and demolition impacts during the construction phase will be mitigated with the preparation of a Construction Management Plan which will include traffic management measures.
- Water: During the construction phase, there is potential for negative impacts on the water quality of the River Lee arising from the release of hydrocarbons, soil and sediment and excess water from dewatering activities which may contain silt/sediment. Detailed mitigation measures are set out to prevent the contamination of the adjacent watercourse from fuel or other hazardous materials. To mitigate against the risk of flooding, measures such as minimum finished floor levels in new build and use of demountable defences are proposed.
- Cultural Heritage: Adverse impacts arising from the demolition of a section of the Revenue Building which is a protected structure to allow for the construction of the tower and the modern design interventions to the Custom House and the Bonded Warehouse. There will be positive impacts on the cultural heritage of this part of Cork City arising from the restoration, extension and reuse of currently vacant or under-utilised historic buildings, the opening up of the site to the public and the extensive provision of public realm.
- Landscape (Townscape and Visual Impact): The proposed development, entailing modern design interventions and a tall building, will have a significant impact on the urban and visual character of the area. The proposed tall building will introduce a major new element visible in key views. It will be prominent and will attain primacy in an emerging cluster of high buildings at this transitional location between the city centre and the docklands. The juxtaposition of the new and the old would provide for visual interest which

would add to its visually attractiveness which would be supplemented by the new public realm.

Notwithstanding the conclusions reached in respect of the negative impact of the demolition of part of the Revenue Building which is a protected structure, it is considered that the environmental effects would not justify a refusal of planning permission, having regard to the overall benefits of the proposed development.

The Board completed an Environmental Impact Assessment in relation to the proposed development and concluded that, subject to the implementation of the mitigation measures set out in the Environmental Impact Assessment Report and subject to compliance with the conditions set out below, the effects on the environment of the proposed development, by itself and in combination with other development in the vicinity, would be acceptable. In doing so, the Board adopted the report and conclusions of the Inspector. The Board is satisfied that this reasoned conclusion is up to date at the time of taking this decision.

Proper Planning and Sustainable Development:

It is considered that, subject to compliance with the conditions set out below, the proposed development:

- would secure the re-development of strategic, under-utilised urban land in a prominent city centre location and would assist in the re-development and rejuvenation of this part of Cork City Centre, in accordance with the policies and objectives of the current Cork City Development Plan,
- would be consistent with national, regional and local policy measures and guidance which seeks to secure more compact and higher density development in city centre areas,
- would enhance the skyline of the City Harbour Interchange Area of the city centre,

- would make a positive contribution to the urban character of the area,
- would not conflict with Objective 10.6 as set out in the Cork City Development Plan which seeks to protect and enhance views and prospects of special amenity value or special interest, and
- would not seriously injure the amenities of development in the area and the character and appearance of Protected Structures.

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

Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars submitted on the 26th day of February 2020 and the 20th day of August 2020, 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. All mitigation and monitoring commitments identified in the Environmental Impact Assessment Report (and summarised in Chapter 21) and Section 6.3 of the Natura Impact Statement 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 clarity and protection of the environment during the construction and operational phases of the proposed development.

3. The following details shall be submitted to the planning authority for written agreement prior to commencement of development:

(a) Installation and management of the maritime themed visitor centre, and

(b) operation of the pontoon on Custom House Quay.

Reason: In the interest of clarity and orderly development of the maritime related uses at the site.

4. (a) A maximum of 20 no. carparking spaces shall be provided within the site. A revised site layout plan with the location and layout of these spaces delineated thereon and the treatment of the remainder of the space originally allocated for car parking which shall be incorporated into the public realm to be submitted to, and agreed in writing, with the planning authority prior to commencement of development.

(b) 5 no. spaces shall be for persons with impaired mobility.

(c) All of the parking spaces shall be provided with functional electric vehicle charging points.

Reason: In the interest of sustainable transportation.

5. A phasing scheme for the proposed development shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of orderly development.

6. All materials, colours and textures of the external finishes to the proposed buildings shall be in accordance with the Architectural Design Statement submitted with the application as revised by the Statement submitted on the

26th day of February 2020. Any deviation from these details shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

7. All materials, colours and textures of the external finishes to the proposed public realm shall be in accordance with the revised Stage 1 Landscape Architectural Report, submitted on the 26th day of February 2020 as amended by the plans and details submitted on the 20th day of August 2020. Any deviation from these details shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

8. Details of all external signage within the proposed development shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

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

9. No additional development shall take place above roof parapet level, including lift motor enclosures, air handling equipment, storage tanks, ducts or other external plant, telecommunication aerials, antennas or equipment, unless authorised by a further grant of planning permission.

Reason: To protect the visual amenity of the area.

10. Prior to commencement of development, the developer shall provide for the following:

- (a) The appointment of a conservation expert who shall manage, monitor and implement works on the site and ensure adequate protection of the historic fabric during those works.

(b) All repair/restoration works shall be carried out in accordance with best conservation practice as detailed in the application and the “Architectural Heritage Protection Guidelines for Planning Authorities” (Department of Arts, Heritage and the Gaeltacht, 2011). The repair/restoration works shall retain the maximum amount possible of surviving historic fabric in-situ including structural elements, plasterwork and joinery and shall be designed to cause minimum interference to the building structure and/or fabric.

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

11. The complex of buildings and associated historic features on the site shall be recorded and documented to a detailed form and level to include a written account and visual record to include measured plans, sections, elevations (scale 1:100), fixtures of significance, construction materials and any earlier interventions. The plans, sections, elevations and architectural details are to be cross referenced to a photographic record and locations of detailed features. Copies of all recording material, condition reports and demolition processes relating to the buildings shall be lodged with the Irish Architectural Archives on completion of the works.

Reason: In the interests of conservation and the proper planning and sustainable development of the area.

12. The developer shall facilitate the archaeological appraisal of the site and shall provide for the preservation, recording and protection of archaeological materials or features which 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, and

(b) employ a suitably qualified archaeologist prior to the commencement of development. The archaeologist shall assess the site and monitor all site development works.

The assessment shall address the following issues:

- (i) the nature and location of any archaeological material on the site, and
- (ii) the impact of the proposed development on such archaeological material. A report, containing the results of the assessment, shall be submitted to the planning authority and, arising from this assessment, the developer shall agree in writing with the planning authority details regarding any further archaeological requirements (including, if necessary, archaeological excavation) prior to commencement of construction works. 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 area and to secure the preservation (in-situ or by record) and protection of any archaeological remains that may exist within the site.

13. (a) The uncontrolled pedestrian crossing at the southern site entrance shall comply with the requirements of the Design Manual for Urban Roads and Streets.

(b) Stage 3 / 4 Road Safety Audit to be undertaken and the findings incorporated into the development.

Reason: In the interest of traffic and pedestrian safety.

14. An updated Mobility Management Strategy Plan shall be submitted to, and agreed in writing with, the planning authority. The following measures shall be undertaken:

(a) The Strategy shall set a target for modal travel split.

(b) A Mobility Manager shall be appointed to oversee and co-ordinate the implementation of the plan.

Reason: In the interest of encouraging the use of sustainable modes of transport.

15. Drainage arrangements including the attenuation and 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.

16. The developer shall enter into water and/or wastewater connection agreement(s) with Irish Water, prior to commencement of development.

Reason: In the interest of public health.

17. The requirements of the Irish Aviation Authority in terms of appropriate marking and lighting scheme shall be incorporated into the development. Details of the said requirements shall be submitted to the planning authority prior to commencement of development.

Reason: In the interests of aircraft safety.

18. 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.

19. A detailed construction traffic management plan shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The plan shall include details of arrangements for routes for construction traffic, parking for construction traffic, parking machinery and the location for storage of deliveries to the site.

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

20. 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.

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.

22. The developer shall pay to the planning authority a financial contribution as a special contribution under section 48(2) (c) of the Planning and Development Act 2000 in respect of:

- (a) upgrade of the northern junction of the N27/Michael Collins Bridge/ Anderson Quay to incorporate traffic signalling equipment;
- (b) Reconfiguration of the SCOOT network;
- (c) Road markings and signage requirements on the N27; and
- (d) Replacement and upgrade of street lighting along the site frontage onto the N27.

The amount of the contribution 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 for determination. The contribution shall be paid prior to commencement of development or in such phase payments as the planning authority may facilitate and shall be updated at the time of payment in accordance with changes in the Wholesale Price Index – Building and Construction (Capital Goods) published by the Central Statistics Office.

Reason: It is considered reasonable that the developer shall contribute towards the specific exceptional costs which are incurred by the planning authority which are not covered in the Development Contribution Scheme and which will benefit the proposed development.

23. The developer shall pay to the planning authority a financial contribution in respect of the Cork Suburban Rail Project in accordance with the terms of the Supplementary Development Contribution Scheme made by the planning authority under section 49 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 Supplementary Development Contribution Scheme made under section 49 of the Act be applied to the permission.

Board Member

Date: 18/03/2021

Dave Walsh