



An  
Bord  
Pleanála

**Board Direction**  
**BD-009474-21**  
**ABP-309152-21**

The submissions on this file and the Inspector's report were considered at a Board meeting held on 12/11/2021.

The Board decided to grant permission, 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) the location of the site in an established urban area, with the site zoned for regeneration;
- (b) the policies and objectives of the Cork County Development Plan 2014
- (c) The Rebuilding Ireland Action Plan for Housing and Homelessness 2016;
- (d) Housing for All - a New Housing Plan for Ireland 2021;
- (e) the National Planning Framework which identifies the importance of compact growth;
- (f) The Guidelines for Sustainable Residential Developments in Urban Areas and the accompanying Urban Design Manual – a Best Practice Guide, issued by the Department of the Environment, Heritage and Local Government in May 2009;
- (g) Urban Development and Building Heights Guidelines for Planning Authorities, prepared by the Department of Housing, Planning and Local Government in December 2018 and particularly Specific Planning Policy Requirement 3;



(h) The Sustainable Urban Housing: Design Standards for New Apartments issued by the Department of the Environment, Community and Local Government in December 2020;

(j) Design Manual for Urban Roads and Streets (DMURS) issued by the Department of Transport, Tourism and Sport and the Department of the Environment, Community and Local Government in March 2013;

(k) The Planning System and Flood Risk Management (including the associated Technical Appendices), 2009;

(l) Architectural Heritage Protection – Guidelines for Planning Authorities (2011);

(m) The nature, scale and design of the proposed development and the existing availability in the area of a wide range of social, transport and water services infrastructure;

(n) The pattern of existing and permitted development in the area;

(o) The submissions and observations received;

(p) The decision of the Planning Authority; and

(q) The report and recommendation of the inspector including the examination, analysis and evaluation undertaken in relation to appropriate assessment and environmental impact assessment.

### **Appropriate Assessment Screening**

The Board completed an Appropriate Assessment screening exercise in relation to the potential effects of the proposed development on designated European Sites, taking into account the nature, scale and location of the proposed development within a zoned and serviced urban area, the Appropriate Assessment Screening document submitted with the application, the Inspector's report, and submissions on file. In completing the screening exercise, the Board adopted the report of the Inspector and concluded that, by itself or in combination with other development in the vicinity, the proposed development would not be likely to have a significant effect on any European Site in view of the conservation objectives of such sites, and that a Stage 2 Appropriate Assessment is not, therefore, required.



### **Environmental Impact Assessment Screening.**

The Board completed an environmental impact assessment screening of the proposed development and considered the Ecological Impact Assessment Report submitted by the applicant,

Having regard to: -

- (a) the nature and scale of the proposed development, which is below the threshold in respect of Class 10(iv) of Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended,
- (b) The existing use on the site and pattern of development in surrounding area;
- (c) The availability of mains water and wastewater services to serve the proposed development,
- (f) The criteria set out in Schedule 7 of the Planning and Development Regulations 2001 (as amended), and
- (g) The features and measures proposed by the applicant envisaged to avoid or prevent what might otherwise be significant effects on the environment,

The Board did not consider that the proposed development would be likely to have significant effects on the environment and that the preparation and submission of an environmental impact assessment report would not therefore be required.

### **Conclusions on Proper Planning and Sustainable Development:**

The Board considered that, subject to compliance with the conditions set out below that the proposed development would constitute an acceptable quantum, mix and density of development in this accessible and central urban village location, would not seriously injure the residential or visual amenities of the area, would enhance the amenity offering for tourists, would not seriously injure the character of the nearby Architectural Conservation area, would be acceptable in terms of design, height, mix and quantum of development, would be acceptable in terms of pedestrian and cyclist safety and would provide an acceptable form of residential amenity for future occupants. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.



In deciding not to accept the Inspectors recommended first reason for refusal the Board noted the site's location adjacent to the Blarney Architectural Conservation Area which encompasses the town centre and Blarney Castle and Estate. The Board also noted the site's zoning objective for regeneration under development objective BL RA 01 of the Blarney Municipal District Local Area Plan 2017 and its identification as a sensitive strategic site wherein any future development will need to protect and enhance the existing character of the area and views of the castle and be of a high-quality architectural design.

The Board was satisfied that the proposed development, having regard to its design, layout, scale and massing would be visually acceptable, and would not seriously injure or detract from the character and setting of the Architectural Conservation Area or the wider heritage value of the area.

In deciding not to accept the inspectors recommendation to refuse on the basis that the proposed development would materially contravene local area plan objective GO-06 which requires that development does not compromise the landscape and heritage character of the area, the Board was satisfied that the proposed development was not in material contravention of the local plan and would not compromise the landscape and heritage character of the area. In this regard the Board did not deem it necessary to invoke Section 37 (2)(b) of the Planning and Development Act 2000 (as amended) and considered that the proposed development would therefore be in accordance with the proper planning and sustainable development of the area.

In deciding not to accept the Inspectors recommended second reason for refusal the Board acknowledged that the site is within an area zoned special policy area BL-X-01 in the current Blarney Municipal District Local Area Plan, 2017.

The Board considered the specific development objective for the zone is for development to include a range of town centre uses including a hotel, leisure centre, offices, residential and appropriate convenience, comparison and tourist related retail uses.



The Board considered that the proposed site layout and arrangement including the convenience retail unit and associated car parking, the hotel , café, residential and other proposed uses, represent an appropriate mix of convenience and tourist related retail uses on the designated sensitive urban site in close proximity to the town centre.

Therefore, the Board was satisfied that the proposed development was not in material contravention of the special policy area zoning for the site and would not militate against but rather align with the goal of objective GO-07 of the local area plan which seeks to promote the further development of Blarney as a key tourist destination. Therefore, the Board did not consider it necessary to invoke Section 37 (2)(b) of the Planning and Development Act 2000 (as amended) and considered that 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 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. In default of agreement, such issues may be referred to An Bord Pleanála for determination.

**Reason:** In the interest of clarity.

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

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



3. All mitigation and monitoring measures outlined in the plans and particulars, including the Ecological Impact Assessment, the Preliminary Construction Environmental Management Plan, the Flood Risk Assessment submitted with this application shall be carried out in full, except where otherwise required by conditions attached to this permission.

**Reason:** In the interest of protecting the environment and in the interest of public health.

4. The following requirements in terms of traffic, transportation and mobility shall be incorporated, and where required revised plans and particulars showing compliance with these requirements shall be submitted to and agreed in writing with the planning authority prior to commencement of development:
- (a) The proposed development shall be undertaken in accordance with the recommendations and mitigation measures of the Traffic Impact Report.
  - (b) The materials used in any roads and footpaths provided by the developer shall comply with the detailed standards of the planning authority for such road works.
  - (c) All works to public roads, footpaths and cycle ways shall be completed to the satisfaction of the planning authority.
  - (d) 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 during the construction phase, the location of the compound for storage of plant and machinery and the location for storage of deliveries to the site.
  - (e) The applicant shall submit a Mobility Management Plan and details of car parking design, layout and management to the planning authority for agreement in writing prior to the commencement of development.



In default of agreement, the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

**Reason:** In the interests of traffic, cyclist and pedestrian safety and to protect residential amenity.

5. The car parking facilities hereby permitted shall be reserved solely to serve the proposed development. The spaces shall not be utilised for any other purpose, including for use in association with any other uses of the development hereby permitted, unless the subject of a separate grant of planning permission. Car parking spaces shall not be sold, rented or otherwise sub-let or leased to other parties. Car parking serving the entire development site shall be managed based on a detailed car parking management plan. Prior to the commencement of development, such a detailed car parking management plan shall be submitted for agreement in writing with the planning authority.

**Reason:** To ensure that adequate parking facilities are permanently available to serve the proposed residential units.

6. A minimum of 10% of all car parking spaces shall be provided with functioning electric vehicle charging stations or points, and ducting shall be provided for all remaining car parking spaces facilitating the installation of electric vehicle charging points or stations at a later date. Where proposals relating to the installation of electric vehicle ducting and charging stations or points has not been submitted with the application, in accordance with the above noted requirements, such proposals shall be submitted and agreed in writing with the planning authority prior to the occupation of the development.

**Reason:** To provide for and or future proof the development such as would facilitate the use of electric vehicles.



7. Proposals for the development name and dwelling numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all signs, and dwelling numbers, shall be provided in accordance with the agreed scheme. The proposed name(s) shall be based on local historical or topographical features, or other alternatives acceptable to the planning authority. No advertisements or marketing signage relating to the name(s) of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name(s).

**Reason:** In the interest of urban legibility and to ensure the use of locally appropriate placenames for new residential areas.

8. Details of the materials, colours and textures of all the external finishes to the proposed buildings shall be as submitted with the application unless otherwise agreed in writing with the planning authority prior to commencement of development. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

**Reason:** In the interest of visual amenity.

9. The areas of open space, as shown on the lodged plans shall be landscaped in accordance with the landscape scheme submitted to An Bord Pleanála with this application, unless otherwise agreed in writing with the planning authority. The landscape scheme shall be implemented fully in the first planting season following completion of the development, and any trees or shrubs which die or are removed within three years of planting shall be replaced in the first planting season thereafter. This work shall be completed before any of the dwellings are made available for occupation. Access to green roof areas shall be strictly prohibited unless for maintenance purposes.

**Reason:** In order to ensure the satisfactory development of the public and



communal open space areas, and their continued use for this purpose.

10. Public lighting shall be provided in accordance with a scheme, which shall include lighting along pedestrian routes through open spaces details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Such lighting shall be provided prior to the making available for occupation of any dwelling.

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

11. Water supply and the arrangements for the disposal of foul water, shall comply with the requirements of the Irish Water for such works and services.

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

12. Prior to commencement of development, the developer shall enter into water and or wastewater connection agreement(s) with Irish Water.

**Reason:** In the interest of public health.

13. 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 interests of public health and surface water management.



14. 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 residential amenities of property in the vicinity and the visual amenities of the area.

15. The management and maintenance of the proposed residential elements of the development following its completion shall be the responsibility of a legally constituted management company. A management scheme providing adequate measures for the future maintenance of public open spaces, roads and communal areas shall be submitted to, and agreed in writing with, the planning authority prior to occupation of the development.

**Reason:** To provide for the satisfactory future maintenance of this development in the interest of residential amenity.

16. 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 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.

17. The construction of the development shall be managed in accordance with a Final Construction and Environmental Management Plan, which shall be submitted to, and agreed in writing with the planning authority prior to commencement of development. This plan shall provide inter alia: details of proposals as relates to soil importation and exportation to and from the site; details and location of proposed construction compounds, details of intended construction practice for the development, including noise and vibration management measures, details of arrangements for routes for construction traffic, parking during the construction phase, and off-site disposal of construction/demolition waste and/or by-products.

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



18. The site development and construction works shall be carried out in such a manner as to ensure that the adjoining roads are kept clear of debris, soil and other material, and cleaning works shall be carried on the adjoining public roads by the developer and at the developer's expense on a daily basis.

**Reason:** To protect the residential amenities of property in the vicinity.

19. 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.

**Reason:** In the interest of sustainable waste management.

20. Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Saturdays inclusive, 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.

21. All service cables associated with the proposed development such as electrical, telecommunications and communal television shall be located underground. Any relocation of utility infrastructure shall be agreed with the relevant utility provider. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development.

**Reason:** In the interests of visual and residential amenity.



22. All items and areas for taking in charge shall be undertaken to a taking in charge standard. Prior to development the applicant shall submit construction details of all items to be taken in charge. No development shall take place until these items have been agreed.

**Reason:** To comply with the planning authority's taking in charge standards.

23. Prior to commencement of development, the applicant or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the provision of housing in accordance with the requirements of section 94(4) and section 96(2) and (3) (Part V) of the Planning and Development Act 2000, as amended, unless an exemption certificate shall have been applied for and been granted under section 97 of the Act, as amended. Where such an agreement is not reached within eight weeks from the date of this order, the matter in dispute (other than a matter to which section 96(7) applies) may be referred by the planning authority or any other prospective party to the agreement to An Bord Pleanála for determination.

**Reason:** To comply with the requirements of Part V of the Planning and Development Act 2000, as amended, and of the housing strategy in the development plan of the area.

24. Prior to the commencement of any house or duplex unit in the development as permitted, the applicant or any person with an interest in the land shall enter into an agreement with the planning authority (such agreement must specify the number and location of each house or duplex unit), pursuant to Section 47 of the Planning and Development Act 2000, as amended, that restricts all houses and duplex units permitted, to first occupation by individual purchasers i.e. those not being a corporate entity, and/or by those eligible for the occupation of social and/or



affordable housing, including cost rental housing.

**Reason:** To restrict new housing development to use by persons of a particular class or description in order to ensure an adequate choice and supply of housing, including affordable housing, in the common good.

25. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the reinstatement of public roads which may be damaged by the transport of materials to the site, to secure the provision and satisfactory completion of roads, footpaths, watermains, drains, open space and other services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

**Reason:** To ensure the satisfactory completion of the development.



26. 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 for Fingal County Council 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

Paul Hyde

Date: 07/12/2021



DECISION QUASHED