

An  
Bord  
Pleanála

**Board Direction**  
**BD-009748-22**  
**ABP-311414-21**

The submissions on this file and the Inspector's report were considered at a Board meeting held on 13/01/2022.

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) the nature, scale and design of the proposed development,
- (b) the availability in the area of a wide range of social, community and transport infrastructure,
- (c) the proximity to the centres of employment
- (d) the pattern of existing and permitted development in the area,
- (e) the planning history within the area,
- (f) the site's location within the North Central suburbs of Cork City, within a built-up area, in close proximity existing public transport infrastructure and accessible to the city centre
- (g) the policies and objectives of the Cork City Development Plan 2015-2021,
- (h) the zoning ZO 8 for District Centre Use with an objective 'To provide for and/or improve district centres as mixed-use centres, with a primary retail function which also act as a focus for a range of services'
- (i) the Rebuilding Ireland Action Plan for Housing and Homelessness, (Government of Ireland, 2016),
- (j) the provisions of Housing for All, A New Housing Plan for Ireland 2021

- (k) the 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
- (l) the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas, 2009
- (m) the Guidelines for Planning Authorities on Sustainable Urban Housing: Design Standards for New Apartments, 2020
- (n) the Planning System and Flood Risk Management (including the associated Technical Appendices), 2009
- (o) Urban Development and Building Heights, Guidelines for Planning Authorities, 2018
- (p) the NIS with the application
- (q) the submissions and observations received, and
- (r) the report of the Chief Executive and associated appendices
- (s) the report of the Inspector,

The Board considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential or visual amenities of the area or of property in the vicinity, and would be acceptable in terms of pedestrian and traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

### **Appropriate Assessment: Stage 1**

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 in a serviced urban area, the Natura Impact Statement Report and other documentation 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 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, other than Great Island SAC (site code 001058) and Cork Harbour SPA (site code 004030) which are European sites for which there is a likelihood of significant effects.

## **Appropriate Assessment: Stage 2**

The Board considered the Natura Impact Statement and all other relevant submissions on the file and carried out an Appropriate Assessment of the implications of the proposed development on Great Island SAC (site code 001058) and Cork Harbour SPA (site code 004030) 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: a) the site-specific conservation objectives for the European sites, b) the likely indirect impacts arising from the proposed development both individually or in combination with other plans or projects, and in particular the risk of impacts on surface water quality, c) the mitigation measures which are included as part of the current proposal.

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. This conclusion is based on a complete assessment of all aspects of the proposed project and there is no reasonable scientific doubt as to the absence of adverse effects.

## **Environmental Impact Assessment Screening**

The Board completed an environmental impact assessment screening of the proposed development and considered that the Environment Report submitted by the applicant, identifies and describes adequately the direct, indirect, secondary, and cumulative effects of the proposed development on the environment. Having regard to:

- (a) the nature and scale of the proposed, which is below the threshold in respect of Class 10(i) and (iv) of Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended,
- (b) the location of the site on lands zoned ZO 8 for District Centre Use with an objective '*To provide for and/or improve district centres as mixed-use centres, with a primary retail function which also act as a focus for a range of services*', where residential development is permitted in principle under the Cork City Development Plan 2015-2021 and the results of the Strategic Environmental Assessment of the Plan;

- (c) the existing use on the site and pattern of development in surrounding area;
- (d) the planning history relating to the site
- (e) the availability of mains water and wastewater services to serve the proposed development,
- (f) the location of the development outside of any sensitive location specified in article 299(C)(1)(v) of the Planning and Regulations 2001 (as amended),
- (g) the guidance set out in the “Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-threshold development”, issued by the Department of the Environment, Heritage and Local Government (2003),
- (h) the criteria set out in Schedule 7 of the Planning and Regulations 2001 (as amended), and
- (i) the features and measures proposed by applicant envisaged to avoid or prevent what might otherwise be significant effects on the environment, including measures identified in the NIS, Ecological Impact Assessment, the Preliminary Site Investigation Report, Construction Environment Management Plan, Preliminary Construction Demolition Waste Management Plan, Storm Water Management and SUDS Assessment and Environmental Impact Assessment – Screening Report.

The Board concluded that, by reason of the nature, scale and location of the subject site, the proposed development would not be likely to have significant effects on the environment. The Board decided, therefore, that an environmental impact assessment report for the proposed development was not necessary in this case.

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

The Board considered that, the development could be granted subject to compliance with the conditions set out below and that the proposed development would constitute an acceptable quantum and density of development in this accessible urban location, would not seriously injure the residential or visual amenities of the area, would be acceptable in terms of urban design, height and quantum of development, 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.

The Board considered that, while a grant of permission for the proposed Strategic Housing Development would not materially contravene a zoning objective of the statutory plans for the area, a grant of permission could materially contravene the Cork City Development Plan 2015-2021 in relation to building height. The Board considers that, having regard to the provisions of section 37(2)(b)(i) and (iii) of the Planning and Development Act 2000, as amended, the grant of permission in material contravention of the City Development Plan would be justified for the following reasons and considerations:

In relation to section 37(2)(b)(i) of the Planning and Development Act 2000 (as amended):

The proposed development is considered to be of strategic and national importance having regard to: the definition of 'strategic housing development' pursuant to section 3 of the Planning and Development (Housing) and Residential Tenancies Act 2016 (as amended); its location along an identified strategic corridor in the Cork Metropolitan Area Strategic Plan) (part of the Southern Regional Assembly Regional Spatial and Economic Strategy) and its potential to contribute to the achievement of the Government's policy to increase delivery of housing from its current under supply set out in Rebuilding Ireland – Action Plan for Housing and Homelessness issued in July 2016, and to facilitate the achievement of greater density and height in residential development in an urban centre close to public transport and centres of employment.

In relation to section 37(2)(b)(iii) of the Planning and Development Act 2000 (as amended):

It is considered that permission for the proposed development should be granted having regard to Government policies as set out in the National Planning Framework (in particular objectives 13 35), the 'Urban Development and Building Height Guidelines for Planning Authorities' issued in 2018 (in particular section 3.2 and Specific Planning Policy Requirement 3).

## Conditions

1. The proposed 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, or as otherwise stipulated by conditions hereunder, and the proposed development shall be carried out and completed in accordance with the agreed particulars. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

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

2. Mitigation and monitoring measures outlined in the plans and particulars, including the Natura Impact Statement, Ecological Impact Assessment, Preliminary Site Investigation Report, Stormwater Management and SUDS Assessment, Flood Risk Assessment Construction Environmental Management Plan, Preliminary Construction and Demolition Waste Management Plan with this application shall be carried out in full, except where otherwise required by conditions attached to this permission.

**Reason:** In the interest of avoiding adverse impacts on Great Island SAC (site code 001058) and Cork Harbour SPA (site code 004030) , protecting the environment and in the interest of public health.

3. Prior to the commencement of development the developer shall submit
  - (a) details for obscured glazing to all windows serving bathrooms and hallways on the northern elevation.

(b) High level windows to living rooms on the northern elevation  
Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority/An Bord Pleanála prior to commencement of development.

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

4. The 114 no. build to rent units hereby permitted shall operate in accordance with the definition of Build-to-Rent developments as set out in the Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities (December 2020) and be used for long term rentals only. No portion of this development shall be used for short term lettings.

**Reason:** In the interest of the proper planning and sustainable development of the area and in the interest of clarity

5. Prior to the commencement of development, the owner shall submit, for the written consent of the planning authority, details of a proposed covenant or legal agreement which confirms that the development hereby permitted shall remain owned and operated by an institutional entity for a minimum period of not less than 15 years and where no individual residential units shall be sold separately for that period. The period of 15 years shall be from the date of occupation of the first residential unit within the scheme.

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

6. Prior to expiration of the 15-year period referred to in the covenant, the owner shall submit for the written agreement of the planning authority, ownership details and management structures proposed for the continued operation of the entire development as a Build-to-Rent scheme. Any proposed amendment or deviation from the Build-to-Rent model as authorised in this permission shall be subject to a separate planning application.

**Reason:** In the interests of orderly development and clarity.

7. 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.

8. Details of shopfronts shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development.

**Reason:** In the interest of visual amenity and to protect the historic character of the area.

9. No external security shutters shall be erected on any of the commercial premises unless authorised by a further grant of planning permission. Details of all internal shutters shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

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

10. No advertisement or advertisement structure (other than those shown on the drawings submitted with the application) shall be erected or displayed on the building (or within the curtilage of the site) in such a manner as to be visible from outside the building, unless authorised by a further grant of planning permission.

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

11. Proposals for the development name, apartment 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 apartment 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/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.

12. (a) The communal open spaces, including hard and soft landscaping, access ways, communal refuse/bin storage, and all areas not intended to be taken in charge by the local authority, shall be maintained by a legally constituted management company.



(b) Details of the management company contract, and drawings/particulars describing the parts of the development for which the company would have responsibility, shall be submitted to, and agreed in writing with, the planning authority before any of the residential units are made available for occupation.

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

13. The following requirements in terms of traffic, transportation and mobility shall be incorporated, and where required revised drawings/reports showing compliance with these requirements shall be submitted to and agreed in writing with the planning authority prior to commencement of development:

- (a) The roads and traffic arrangements serving the site, including road improvements, signage, shall be in accordance with the detailed requirements of the planning authority for such works and shall be carried out at the developer's expense.
- (b) The materials used in any roads / 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 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.

**Reason:** In the interest of traffic safety.

14. A total of 114 no. secure bicycle parking spaces shall be provided within the development. Design details for the cycle spaces shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** To ensure that adequate bicycle parking provision is available to serve the proposed development, in the interest of sustainable transportation.

15. Prior to the occupation of the development, a Mobility Management Strategy shall be submitted to and agreed in writing with the planning authority. This shall provide for incentives to encourage the use of public transport, cycling, and walking by residents/occupants/staff employed in the development. The mobility strategy shall be prepared and implemented by the management company for all units within the development.

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

16. Prior to commencement of the development, details of all areas of boundary treatment and planting, shall be submitted to, and approved, by the planning authority. Boundaries and areas of communal open space 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 3 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 open space areas, and their continued use for this purpose.

17. Public lighting shall be provided in accordance with a final scheme to reflect the indicative details in the submitted Public Lighting Strategy, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development/installation of lighting. Such lighting shall be provided prior to the making available for occupation of any residential unit.

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

18. Prior to commencement of development, the developer shall enter into water and waste water connection agreements with Irish Water.

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

19. 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.
20. 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 surface water management.
21. Prior to the commencement of development the applicant shall submit to and agree in writing with the planning authority, the proposed finished floor levels for the ground floor of the proposed development.  
**Reason:** In the interests of public health and mitigation of flood impacts.
22. The Applicant shall enter into a new connection agreement with Cork City Council for the proposed new connection to the public stormwater sewer.  
**Reason:** In the interests of public health.
23. 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, inter alia: details and location of proposed construction compounds, details of intended construction practice for the development, including hours of working, noise and dust management measures, details of arrangements for routes for construction traffic, parking during the construction phase, and off-site disposal of construction/demolition waste.  
**Reason:** In the interests of public safety and residential amenity.

24. 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.

25. 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.

26. A plan containing details for the management of waste (and, in particular, recyclable materials) within the 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 submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the waste shall be managed in accordance with the agreed plan.

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

27. Prior to commencement of development, the developer shall submit to the Planning Authority a method statement in line with the “Energy Institute Design, construction, modification, maintenance and decommissioning of filling stations (known as the Blue Book)” guidelines for the decommissioning of the existing underground fuel storage tanks for the prior written agreement of the Planning Authority.

**Reason:** In the interest of orderly management and disposal of waste.

28. (a) the developer shall ensure that any excavated material stockpiled on site during construction shall be held in a manner such as to ensure that no silt or run-off from these stockpiles enters any watercourse.

(b) the developer shall ensure that the river banks and their habitats for fish, mammals and birds are not negatively impacted upon by the construction works.

(c) the developer shall ensure that surface water from the development is free from herbicides, pesticides, fertilisers and other substances which could have a harmful effect on the environment.

**Reasons:** In the interest of preservation of wildlife.

29. The developer shall notify the Dublin Airport Authority / Cork Airport and the Irish Aviation Authority not less than 30 days prior to the erection of any crane on the subject site.

**Reason:** In the interest of aviation safety.

30. (a) lights from the proposed development, either during the construction phase or when the development is completed, shall not cause glare or in any way impair the vision of train drivers or personnel operating on track machines.

(b) all works on and adjacent to the required to meet the terms of the Railway Safety Act 2005. This includes demolition and construction activities.

(c) permission shall be sought from Iarnród Éireann for the use of cranes or any other lifting devices where the airspace within the railway boundary is to be encroached by crane jibs, etc.

**Reason:** In the interest of railway safety.

31. 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.

32. 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 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.

33. 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.

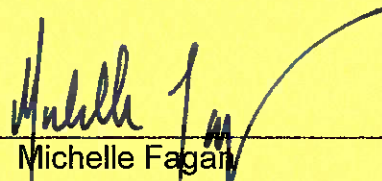
**Reason:** It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

34. The developer shall pay to the Planning Authority a financial contribution in respect of works and the provision of rolling stock associated with the re-opening of and operation of suburban rail services on the Cork to Midleton line. Provision of new rail services between Blarney and Cork (some to continue to Mallow). Upgrading of rolling stock and frequency on the Cobh rail line as demand increases. Within the City, the main elements of the project are the re-opening of Kilbarry Rail Station and the refurbishment/realignment of the Central (Kent) Station as referred to in the Cork City Council General Development Contribution Scheme 2020-2022 & Supplementary Development Contribution Scheme 2020-2022. 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 made 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

  
Michelle Fagan

Date: 13/01/2022