

An  
Bord  
Pleanála

**Board Direction**  
**BD-013021-23**  
**ABP-312241-21**

The submissions on this file and the Inspector's report were considered at a Board meeting held on 25/07/2023.

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

### **Reasons and Considerations**

Having regard to the city centre location of the site, the provisions of the Waterford City and County Development Plan 2022-2028, the scale and nature of the proposed development and to the pattern of development in the area, it is 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, would not adversely affect the character or setting of the protected structure or of the Architectural Conservation Area in which it is located or any other protected structures in the vicinity and would be acceptable in terms of pedestrian and traffic safety. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

### **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.

**Reason:** In the interest of clarity

2. Water supply and drainage arrangements, including the disposal of surface water from the site, shall be in accordance with the detailed requirements of the planning authority.

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

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

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

4. The developer shall control odour emissions from the premises in accordance with measures including extract duct details, which shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development.

**Reason:** In the interest of public health and to protect the amenities of the area.

5. (a) A conservation architect with proven and appropriate expertise shall be employed to design, manage, monitor and implement the works to the protected structure at number 36 The Mall and to ensure adequate protection of the retained and historic fabric during the works. In this

regard, all permitted works shall be designed to cause minimum interference to the retained building and facades structure and/or fabric.

- (b) All works to the protected structure shall be carried out in accordance with best conservation practice and the Architectural Heritage Protection Guidelines for Planning Authorities (2011) and Advice Series issued by the Department of the Arts, Heritage and the Gaeltacht. Any repair works shall retain the maximum amount of surviving historic fabric in situ. Items to be removed for repair off-site shall be recorded prior to removal, catalogued and numbered to allow for authentic re-instatement.
- (c) The protected lamp stands in front of The Tower Hotel and the terrace of buildings at Lombard Street which are located in a designated Architectural Conservation Area shall be adequately protected during construction and demolition works to avoid any damage to the historic fabric with regular monitoring during the construction process by an accredited conservation expert and executed by contractors with proven conservation expertise.

**Reason:** To ensure that the integrity of the protected structure and historic fabric in this Architectural Conservation Area is maintained and that the proposed repair works are carried out in accordance with best conservation practice with no unauthorised or unnecessary damage or loss of historic building fabric.

- 6. 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.

- 7. Site development and building works shall be carried out only between the hours of 0700 and 1900 from Mondays to Fridays inclusive, between 0800 and 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 amenities of property in the vicinity.

8. No additional development shall take place above roof parapet levels, including lift motor enclosures, air handling equipment, storage tanks, ducts or other external plant, machinery or telecommunications aerial, antennas or equipment unless authorised by a further grant of planning permission.

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

9. 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.

10. The construction of 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. The plan shall provide a demolition management plan, together with details of intended construction practice for the development, including a detailed traffic management plan and noise management measures.

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

11. 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 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.

12. 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.

#### **Note 1**

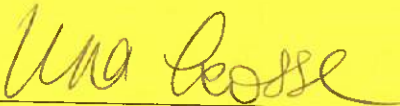
The Board noted Condition 3 of the Planning Authority Notification of Decision to Grant permission, the Roads and Transportation Planning Report received by the Planning Authority on 17 November 2021 upon which it is based, and Condition 2 of the Inspectors recommended conditions. The works required to comply with the proposed condition are outside the control of the applicant and would comprise works which could materially alter access to and through Rose Lane. It was therefore decided that the condition was neither precise nor reasonable as the changes to the public realm which would arise would be the subject of the compliance process related to a private development and the Board decided for this reason to omit this Condition.

**Note 2**

The applicant is reminded that, with reference to section 34(13) of the Planning and Development Act 2000, as amended, that a person shall not be entitled solely by reason of a permission under this section to carry out any development.

Copy of Direction to issue with Board Order.

**Board Member**

  
Una Crosse

**Date:** 25/07/2023



