

An
Bord
Pleanála

Board Direction
BD-010972-22
ABP-313142-22

The submissions on this file and the Inspector's report were considered at a Board meeting held on 12/07/2022.

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 site's location close to Cork City Centre, close to a bus service and other local facilities and amenities, within an established built-up area on lands with a zoning objective ZO 16 Mixed Use Development with the objective to promote the development of mixed uses to ensure the creation of a vibrant urban area, working in tandem with the principles of sustainable development, transportation and self-sufficiency, in the Cork City Development plan 2015-2021,
- (b) the policies and objectives set out in the NPF and SRA/RSES
- (c) the policies and objectives set out in the Cork City Development Plan 2015-2021,
- (d) Rebuilding Ireland Action Plan for Housing and Homelessness, 2016
- (e) Housing for All - a New Housing Plan for Ireland (September 2021)
- (f) Urban Development and Building Heights, Guidelines for Planning Authorities, 2018

- (g) the Design Manual for Urban Roads and Streets (DMURS), 2013, as amended
- (h) the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas, 2009
- (i) the Guidelines for Planning Authorities on Sustainable Urban Housing: Design Standards for New Apartments, 2020
- (j) the Planning System and Flood Risk Management (including the associated Technical Appendices), 2009
- (k) the nature, scale and design of the proposed development,
- (l) the availability in the area of a range of social, community and transport infrastructure,
- (m) the pattern of existing and permitted development in the area,
- (n) the planning history of the site and within the area,
- (o) the submissions and observations received,
- (p) the report of the Chief Executive of Cork City Council, and
- (q) the report of the Inspector, including the examination, analysis and evaluation undertaken in relation to appropriate assessment and environmental impact assessment.

It is considered that, subject to compliance with the conditions set out below 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 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.

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

within a zoned and serviced urban area, the Natura Impact Statement Report submitted with the application, the Inspector's Report, and submissions on the 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, other than European Site Cork Harbour SPA (004030) Great Island Channel SAC (001058), 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 Cork Harbour SPA (004030) Great Island Channel SAC (001058), 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 direct and 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 and ground water quality,
- c) the mitigation measures which are included as part of the current proposal.

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 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. This conclusion is based on the following:

a) The measures identified to control the quality of surface water discharges which provide for the interception of silt and other contaminants prior to discharge from the site during construction and operational phases, and for the avoidance of ground water contamination.

Environmental Impact Assessment

The Board completed an environmental impact assessment screening of the proposed development and considered that the Environmental Impact Assessment Screening Information Report submitted by the developer, which contains the information as set out in Schedule 7A of the Planning and Development Regulations 2001, as amended and the Article 299B Statement 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(b)(iv) and Class 13 of Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended,

(b) the site's location close to Cork City Centre, close to existing and planned public transport routes within an established built-up area on lands with a zoning objective ZO16 Mixed Use Development, in the Cork City Development Plan 2015-2021,

(c) the existing use on the site and pattern of development in the surrounding area,

(d) the planning history relating to the surrounding area,

(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 Development Regulations 2001, as amended,

(g) the provisions of the guidance as 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 as set out in Schedule 7 of the Planning and Development Regulations 2001, as amended, and

(i) the features and measures proposed by the developer envisaged to avoid or prevent what might otherwise be significant effects on the environment, including measures identified in the Outline Construction Management Plan,

It is considered that the proposed development would not be likely to have significant effects on the environment and that the effects on the environment and that the preparation and submission of an environmental impact assessment report would not, therefore, be required.

Conclusion on Proper Planning and Sustainable Development

The Board considered that the proposed development is broadly compliant with the provisions of the Cork City Development Plan 2015-2021, apart from the building height parameters, and would therefore be in accordance with the proper planning and sustainable development of the area. The Board considers that, while a grant of permission for the proposed Strategic Housing Development would not materially contravene a land use zoning objective of the Development Plan, it would materially contravene objectives of the Plan with regard 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 development plan would be justified for the following reasons and considerations:

a) The proposed development is considered to be of strategic or 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; and its potential to provide a significant number of residential units (190) and deliver on the Government's policy to increase delivery of housing from its current under-supply as set out in Rebuilding Ireland Action Plan for Housing and

Homelessness issued in July 2016 and the recently published government strategy Housing for All - a New Housing Plan for Ireland (September 2021), 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.

(b) It is considered that, in respect of building height, 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 and 35, and the Urban Development and Building Height Guidelines for Planning Authorities, in particular SPPR1 and SPPR3.

In accordance with section 9(6) of the 2016 Act, the Board considered that the criteria in section 37(2)(b)(i) and (iii) of the 2000 Act were satisfied for the reasons and considerations set out.

Furthermore, the Board considered that, subject to compliance with the conditions set out below, the proposed development would constitute an acceptable quantum and mix of unit types and density of development in this accessible urban location, would not seriously injure the residential or visual amenities of the area or be prejudicial to public health, would be acceptable in terms of urban design and height and 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, or as otherwise stipulated by conditions hereunder, and the 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. The mitigation measures contained in the Natura Impact Statement, which was submitted with the application, shall be implemented in full.

Reason: In the interest of clarity and the proper planning and sustainable development of the area and to ensure the protection of the European sites.

3. The proposed development shall be amended as follows:

a) Prior to commencement of development, the Applicant shall submit a revised site layout plan, incorporating an amended interaction between the proposed development and the existing Monahan Road stream at its southern boundary, to provide a buffer zone, nature based treatment of the northern bank of the watercourse, increased provision of public open space and a more gradual interface between the development and the stream, in place of the 3.5m high hard edge proposed within the application documentation. Full details, including elevational and sectional drawings, shall be submitted to, and agreed in writing with, the Planning Authority prior to development commencing.

b) A 6-metre-wide wayleave shall be provided for the proposed culvert along the northern boundary of the site, details to be agreed with the planning authority.

Revised drawings, to include detailed cross sections, showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development.

Reason: In the interests of visual amenity, sustainable development, and to improve the quality of public urban spaces.

4. 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 matters in dispute shall be referred to An Bord Pleanála for determination.

Reason: In the interest of visual amenity

5. 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/installation of lighting. Such lighting shall be provided prior to the making available for occupation of any house.

Reason: In the interests of amenity and public safety.

6. Proposals for a street, building and public space naming scheme and associated signage shall be submitted to and agreed in writing with the planning authority, prior to commencement of development. Thereafter, all street signs and dwelling numbers shall be provided in accordance with the agreed scheme. 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 names.

Reason: In the interest of urban legibility.

7. Drainage arrangements, including the attenuation and disposal of surface water, shall comply with the detailed requirements of the planning authority for such works and services. Details to be agreed in writing prior to the commencement of development on the site shall include:

a) A finalised surface water attenuation / storage solution which shall be suitable for the groundwater conditions at the application site.

b) Revised drainage and / or taking in charge details such that surface water attenuation tanks shall not be located on lands intended to be taken in charge by the local authority.

c) Final details of proposed works to existing drainage channels or culverts as part of the proposed development.

Reason: In the interests of public health

8. Prior to commencement of development the developer shall submit to the Planning Authority for written agreement, a Stage 2 - Detailed Design Stage Storm Water Audit. Upon Completion of the development, a Stage 3 Completion Stormwater Audit, to demonstrate that Sustainable Urban Drainage System measures have been installed and are working as designed and that there has been no misconnections or damage to storm water drainage infrastructure during construction, shall be submitted to the planning authority for written agreement.

Reason: In the interest of public health and surface water management

9. (a) The mitigation measures identified in the Flood Risk Assessment Report (2 February 2022) submitted with the application shall be implemented in full. Any proposed changes to the measures shall be agreed in writing with the planning authority prior to the commencement of development on the site.

(b) Prior to first occupation of any unit on the site, a Flood Emergency Management Plan shall be submitted to and agreed in writing with the planning authority. Such plan shall be subject to regular review by the management company for the development.

Reason: In the interests of public health and safety

10. The developer shall enter into water and wastewater connection agreements with Irish Water, prior to commencement of development.

Reason: In the interest of public health.

11. All mitigation measures identified in the Wind Microclimate Assessment (22 March, 2022) shall be implemented in full.

Reason: In the interests of residential amenity and public safety

12. (a) The site shall be landscaped and paving and earthworks carried out in accordance with the detailed comprehensive scheme of landscaping, which

accompanied the application submitted, unless otherwise agreed in writing with, the planning authority prior to commencement of development.

(b) The palette of materials, including street furniture, paving etc to be used in public spaces, shall be agreed in writing with the planning authority prior to the commencement of development on the site.

Reason: In the interest of residential and visual amenity

13. (a) Prior to commencement of development, all trees, groups of trees, hedging and shrubs within and adjoining the site which are to be retained shall be enclosed within stout fences not less than 1.5 metres in height. This shall include all trees along Marquee Road. This protective fencing shall enclose an area covered by the crown spread of the branches, or at minimum a radius of two metres from the trunk of the tree or the centre of the shrub, and to a distance of two metres on each side of the hedge for its full length and shall be maintained until the development has been completed.

(b) No construction equipment, machinery or materials shall be brought onto the site for the purpose of the development until all the trees which are to be retained have been protected by this fencing. No work shall be carried out within the area enclosed by the fencing and, in particular, there shall be no parking of vehicles, placing of site huts, storage compounds or topsoil heaps, storage of oil, chemicals or other substances, and no lighting of fires, over the root spread of any tree to be retained.

(c) No trench, embankment or pipe run shall be located within three metres of any trees which are to be retained on the site.

Reason: To protect trees and planting during the construction period in the interest of visual amenity.

14. A schedule of landscape management and maintenance shall be submitted to, and agreed in writing with, the planning authority prior to occupation of the development. This schedule shall cover a period of at least three years from

completion of the overall development and shall include details of the arrangements for its implementation.

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

15. Final landscaping and finished ground levels within the proposed linear park shall be agreed in writing with the planning authority prior to the commencement of development, which levels shall ensure that universal access to pedestrian crossings of the Monaghan's Road Extension is achieved.

Reason: In order to provide universal access between the development and Marina Park.

16. The developer shall engage with the operators of Cork Airport and with the Irish Aviation Authority and shall:

- a) Undertake a preliminary assessment of the potential impact of the proposed development, including construction cranes, on instrument flight procedures, and communications, navigation or surveillance equipment at Cork Airport.
- b) Agree an obstacle lighting scheme for structures on the site.
- c) Provide at least 30-days' notice of any proposed crane operations on the site.

Reason: In the interests of public and aircraft safety

17. The management and maintenance of the proposed 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.

18. (a) The road network serving the proposed development, including junctions, surfacing, parking / set-down areas, car park access roads layouts, footpaths and kerbs shall be in accordance with the detailed construction standards of the planning authority for such works and the design standards outlined in the Design manual for Urban Roads and Streets (DMURS) 2020 and the National Cycle Manual. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

(b) Prior to the commencement of development, full design details in respect of shared surfaces and raised tables at proposed junctions, including geometry and materials, shall be submitted to and agreed in writing with the planning authority.

Reason: In the interest of amenity and of traffic and pedestrian safety, and to ensure an appropriate standard of development.

19. (a) All findings of the Quality Audit at initial and detailed design stages shall be finalised and incorporated into the development in a manner to be agreed in writing with the planning authority prior to the commencement of development.

(b) A stage 3 / 4 Road Safety Audit in respect of the proposed development shall be undertaken and the findings of the audit shall be incorporated into the development. Final details in this regard shall be submitted to and agreed in writing with the planning authority.

Reason: In the interests of road safety

20. Prior to the occupation of the development, a Parking Management Plan shall be prepared for the development and shall be submitted to and agreed in writing with the planning authority. This plan shall provide for the permanent retention of the designated residential parking spaces and shall indicate how these and other spaces within the development shall be assigned, segregated by use and how the car park shall be continually managed.

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

21. Final design details in respect of surface level visitor / short-term bicycle parking, shall be submitted to and agreed in writing with the planning authority prior to the commencement of development on the site. Details to be agreed shall include the proportion and location of cycle parking spaces to be provided as covered spaces and the design of parking structures.

Reason: To ensure that a satisfactory quality of bicycle parking is available to encourage sustainable travel patterns.

22. Prior to the opening/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, walking and carpooling by residents / occupants / staff employed in the development and to reduce and regulate the extent of parking. 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.

23. A minimum of 10% of all communal car parking spaces should be provided with functioning EV charging stations/points, and ducting shall be provided for all remaining car parking spaces, including in-curtilage spaces, facilitating the installation of EV charging points/stations at a later date. Where proposals relating to the installation of EV ducting and charging stations/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.

24. Details of all security shuttering, external shopfronts, lighting and signage shall be as submitted to An Bord Pleanála with this application unless otherwise

submitted to, and agreed in writing with, the planning authority prior to occupation of the commercial/retail units.

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

25. The construction of the development shall be managed in accordance with a 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 details of intended construction practice for the development, including:

- a) Location of the site and materials compounds including areas identified for the storage of construction refuse.
- b) Location of areas for construction site offices and staff facilities.
- c) Details of site security fencing and hoardings.
- d) Details of on-site car parking facilities for site workers during construction.
- e) Details of the timing and routing of construction traffic to and from the construction site and associated directional signage, to include proposals to facilitate the delivery of abnormal loads to the site.
- f) Measures to obviate queuing of construction traffic on the adjoining road network.
- g) Measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network.
- h) Alternative arrangements to be put in place for pedestrians and vehicles in the case of the closure of any public road or footpath during the course of site development works.
- i) Details of appropriate mitigation measures for noise, dust and vibration, and the location and frequency of monitoring of such levels.
- j) Containment of all construction-related fuel and oil within specially constructed bunds to ensure that fuel spillages are fully contained. Such bunds shall be roofed to exclude rainwater.

k) Means to ensure that surface water run-off is controlled such that no silt or other pollutants / contaminants enter local surface water sewers or drains.

l) A record of daily checks that the works are being undertaken in accordance with the Construction Management Plan shall be kept for inspection by the planning authority.

m) Measure to fully remediate the site in accordance with a Construction Stage Invasive Plant Species Management plan, in advance of the commencement of construction activities.

Reason: In the interest of amenities, public health and safety.

26. A suitably qualified / experienced Ecologist shall be appointed in the role of Ecological Clerk of Works, who shall be responsible for the implementation, management and monitoring of the identified construction mitigation measures, and the Construction and Environmental Management Plan.

Reason: In the interest of amenities, public health and safety.

27. Construction and demolition waste shall be managed in accordance with a finalised Construction and Demolition Waste 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, including contaminated materials, and details of the methods and locations to be employed for the prevention, minimisation, handling, 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. Full project waste disposal records shall be maintained and be available for inspection by the planning authority.

Reason: In the interest of sustainable waste management.

28. The developer shall facilitate the preservation, recording and protection of archaeological materials or features that 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,

(b) employ a suitably qualified archaeologist who shall monitor all site investigations and other excavation works, and

(c) provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove. 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 site and to secure the preservation and protection of any remains that may exist within the site.

29. 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.

30. 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 and maintenance until taken in charge by the local authority of roads, footpaths, watermains, drains, public 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 or maintenance 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 and maintenance of the development until taken in charge.

31. 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.

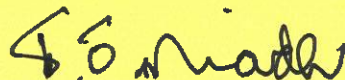
Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission

32. 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

Plus: ABPs model electric bicycles condition.

Board Member



Date: 12/07/2022

Terry Ó Niadh