



An
Bord
Pleanála

Board Direction
BD-014711-23
ABP-313328-22

The submissions on this file and the Inspector's report were considered at a Board meeting held on 04/10/2023.

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:

National planning, related policy and guidance, including:

- Project Ireland 2040 National Planning Framework,
- National Development Plan 2018-2027,
- National policy including the Climate Action Plan 2023,

Regional and local level policy, including:

- The Regional Spatial Economic Strategy for the Southern Region 2020,
- The policies of the Planning Authority as set out in the Cork City Development Plan 2022-2028

other matters, including:

- the nature, scale and design of the proposed development as set out in the planning application and the pattern of development in the vicinity,
- the submissions made to An Bord Pleanála in connection with the planning application and the submissions following request under Section 137 of the Planning and Development Act (as amended).

- the report of the Planning Inspector, including the examination, analysis and evaluation undertaken in relation to appropriate assessment and environmental impact assessment.
- the proposed development performed well against the criteria of Assessing the Impacts of Tall Buildings under the CDP1.
- the proposed development's compliance with criteria for tall buildings: visual impact, functional impact, environmental impact and impacts on microclimate, cumulative impacts with other tall buildings, public access, application process, development guidance (Sections 11.53 to 11.60 of the CDP).

Having regard to the nature, location and context of the proposed site and surrounding areas and of the proposed development is considered that the proposed development is in accordance with the proper planning and sustainable development in the area.

In deciding not to accept the Inspector's recommendation to refuse permission, the Board noted, that the Inspector considered that the proposed development, including its height would be acceptable and would represent a sustainable use of the subject lands (para. 8.5.10 of Inspector's report dated 06/1/22022 refers). The Board shared this opinion of the Inspector. The Inspector recommended refusal solely on the basis that, in her interpretation, the proposed building height would not be consistent with the relevant provisions of the current development plan policy, by reference to height. However, subsequent to a Section 137 exercise, the Board considered the totality of the documentation on file, including the submissions of the planning authority, the applicant and the appellant, on the matter of the height policy of the current Development Plan. The Board determined that Section 11.51 of the Development Plan provides inherent flexibility for the consideration of tall buildings, allowing for consideration of the appropriateness of this proposed development having regard to its specific context, to its detailed design and the overall site context which includes several buildings of 5 or 6 storeys. In this regard, the Board shared the view of the Planning Authority that the current Development Plan provides the mechanisms for the assessment and consideration of a tall building on the proposed development site, under paragraph 11.51 and the other relevant provisions set out

therein and that the proposed development would not be inconsistent with the totality of these relevant development plan provisions. The Board also agreed with the Inspector that no issue of potential material contravention of the development plan arises.

Conditions

Adapt PA conditions to our standard conditions as below, re-number as appropriate.

1	Plans and particulars – our standard	<p>The development shall be carried out and completed in accordance with the plans and particulars lodged with the application as amended by the further plans and particulars submitted on the 10th day of December, 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.</p> <p>Reason: In the interest of clarity.</p>
	<p>Add in our standard EIA and AA condition here</p> <p>Insert as separate conditions</p>	<p>The mitigation measures and monitoring commitments identified in the environmental impact assessment report shall be implemented in full.</p> <p>Reason: In the interest of clarity and the protection of the environment during the construction and operational phases of the proposed development.</p> <p>The mitigation measures contained in the Natura Impact Statement submitted with the planning application shall be implemented in full.</p> <p>Reason: In the interest of clarity and the proper planning and sustainable development of the area and to ensure the protection of European sites in the vicinity.</p>
2	Roof plant	<p>No fans, louvres, ducts or other external plant other than those shown on the drawings hereby permitted shall be installed unless authorised by a prior grant of planning permission.</p> <p>Reason: In the interest of visual amenity.</p>

4	Windows and doors of bottling plant/ Conservation officer	<p>Merge Planning Authority 4 and 5 and amend as below</p> <p>Same as CC but with slight mods to first para and add in (a) and (b) of condition 5:</p> <p>The following details shall be shall be submitted to and agreed in writing with, the planning authority prior to commencement of development:</p> <p>(a) as per CC (b)</p>
5	Omit – add in to 4 above	
6	Drawings isometric drawing	As per Planning Authority no 6
7	Archaeology	<p>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 -</p> <p>(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,</p> <p>(b) employ a suitably-qualified archaeologist who shall monitor all site investigations and other excavation works, and</p> <p>(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.</p> <p>In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.</p> <p>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.</p>
8	Adequate protection for chimney and photos etc	As per Planning Authority 8
9	Invasive species	The developer shall prepare an Invasive Species Management Plan for the written agreement of the planning authority and all plant and machinery used during the works should be thoroughly cleaned and

		<p>washed before delivery to the site to prevent the spread of hazardous invasive species and pathogens.</p> <p>Reason: In the interest of the proper planning and sustainable development of the area</p>
10	EIA - otter	See standard conditions under Cond. 1 above – should suffice?
11	EIA - bats	See standard conditions under Cond. 1 above – should suffice?
12	Tree roots	As per Planning Authority
13	Ecologist	As per Planning Authority
14	Pollinator friendly trees	As per Planning Authority
15	Removal of trees	<p>Construction works shall only take place between the months of August and April.</p> <p>Reason: To prevent disturbance to nesting birds and in the interest of nature conservation.</p>
16	C&D waste	<p>Prior to the commencement of development, the developer or any agent acting on its behalf, shall prepare a Resource Waste Management Plan (RWMP) as set out in the EPA's Best Practice Guidelines for the Preparation of Resource and Waste Management Plans for Construction and Demolition Projects (2021) including demonstration of proposals to adhere to best practice and protocols. The RWMP shall include specific proposals as to how the RWMP will be measured and monitored for effectiveness; these details shall be placed on the file and retained as part of the public record. The RWMP must be submitted to the planning authority for written agreement prior to the commencement of development. All records (including for waste and all resources) pursuant to the agreed RWMP shall be made available for inspection at the site office at all times.</p> <p>Reason: In the interest of sustainable waste management.</p>
17	Operational waste mgt	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.
18	Contaminated land – seems to be site specific	As per Planning Authority
19	CEMP	<p>Prior to commencement of development, a detailed Construction Environmental Management Plan (CEMP) for the construction phase shall be submitted to and agreed in writing with the planning authority. The CEMP shall incorporate the following: (a) a detailed plan for the construction phase incorporating, inter alia, construction programme, supervisory measures, noise, dust and surface water management measures including appointment of a site noise liaison officer, and the management, transport and disposal of construction waste; (b) a comprehensive programme for the implementation of all monitoring commitments made in the application and supporting documentation during the construction period; (c) an emergency response plan; and (d) proposals in relation to public information and communication. A record of daily checks that the works are being undertaken in accordance with the Construction Environmental Management Plan shall be kept for inspection by the planning authority.</p> <p>Reason: In the interest of environmental protection and orderly development</p>
20	Noise	As per Planning Authority 20
23	Specific to file	As per Planning Authority 23
24	Lighting	As per Planning Authority 24
25	Lighting	Repeat of 24 - Omit
26	Parking	Ok – site specific. As per Planning Authority
27	Construction Traffic Plan	Covered in 20 CEMP - omit
28,	Water	<p>Prior to commencement of development, the developer shall enter into water and/or waste water connection agreement(s) with Uisce Eireann.</p> <p>Reason: In the interest of public health.</p>
29	Sewer	The disposal of surface water, shall comply with the requirements of the planning authority for such works.

		Reason: To ensure adequate servicing of the development, and to prevent pollution.
30	sewer	As above
31	Flooding	Ok As per Planning Authority
32	Sewer	29 covers this omit Planning Authority condition
33	CEMP	20 covers omit Planning Authority condition
34	sewer	29 covers omit Planning Authority condition
35	Flooding	Is this covered by no.1, omit Planning Authority condition
36	Finance	Standard ABP section 48 condition

Board Member



Date: 29/11/2023

Peter Mullan