

An
Bord
Pleanála

Board Direction
BD-017368-24
ABP-313720-22

The submissions on this file and the Inspector's report were considered at a Board meeting held on 02/09/2024.

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 making its decision, the Board had regard to those matters to which, by virtue of the Planning and Development Acts and Regulations made thereunder, it was required to have regard. Such matters included any submissions and observations received by it in accordance with statutory provisions. In coming to its decision, the Board had regard to the following:

- a. The site's location on lands with a zoning objective for 'Town Centre/Neighbourhood Centres';
- b. The policies and objectives in the Cork County Development Plan 2022-2028
- c. Nature, scale and design of the proposed development;
- d. Pattern of existing development in the area;
- e. The Sustainable Residential Development and Compact Settlements, Guidelines for Planning Authorities (2024);
- f. Housing for All – A New Housing Plan for Ireland, 2021
- g. The National Planning Framework issued by the Department of Housing, Planning and Local Government in February 2018;
- h. Regional Spatial and Economic Strategy for Southern Region;

- i. 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;
- j. Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities (2023);
- k. Urban Development and Building Heights, Guidelines for Planning Authorities (2018);
- l. Chief Executive's Report;
- m. Inspector's Report; and
- n. Submissions and observations received.
- o. The report of the Inspector

Appropriate Assessment:

The Board completed an Appropriate Assessment screening exercise in relation to the potential effects of the proposed development on European Sites, taking into account the nature and scale of the proposed development on serviced lands, the nature of the receiving environment which comprises a built-up urban area, the distances to the nearest European sites, and the hydrological pathway considerations, submissions on file, the information submitted as part of the applicant's Appropriate Assessment Screening documentation and the Inspector's report.

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 the Cork Harbour SPA (004030), which is the European Site 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 including expert submissions received and carried out an appropriate assessment of the implications of the proposed development on the Cork Harbour SPA (004030), in view of the site's Conservation Objectives. The Board considered that the information before it was sufficient to undertake a complete assessment of all aspects of the

proposed development in relation to the site's Conservation Objectives using the best available scientific knowledge in the field.

In completing the assessment, the Board considered, in particular, the following:

- (a) the likely direct and indirect impacts arising from the proposed development both individually or in combination with other plans or projects,
- (b) the mitigation measures which are included as part of the current proposal, and
- (c) the conservation objectives for the European site.

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 site's 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 the European Site in view of the conservation objectives of the site. 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

The Board completed in compliance with Section 172 of the Planning and Development Act 2000, an environmental impact assessment of the proposed development, taking into account:

- (a) the nature, scale, location and extent of the proposed development in an urban area served by foul and surface sewerage systems,
- (b) the environmental impact assessment report and associated documentation submitted with the application,
- (c) the grounds of appeal, the submissions from the planning authority, the prescribed bodies and third parties in the course of the application and appeal, and
- (d) the Inspector's report.

Reasoned Conclusions on the Significant Effects

The Board completed, in compliance with s.172 of the Planning and Development Act 2000, an Environmental Impact Assessment of the proposed development, taking into account: (a) The nature, scale and extent of the proposed development; (b) The Environmental Impact Assessment Report and associated documentation submitted in support of the application, (c) The submissions from the applicant, planning authority, third parties and the prescribed bodies in the course of the application; and (d) The Planning Inspector's report.

The Board considered that the Environmental Impact Assessment Report, supported by the documentation submitted by the applicant, provided information which is reasonable and sufficient to allow the Board to reach a reasoned conclusion on the significant effects of the proposed development on the environment, taking into account current knowledge and methods of assessment and the results of the examination set out in the Inspector's Report.

The Board is satisfied that the information contained in the Environmental Impact Assessment Report is up to date and complies with the provisions of EU Directive 2014/52/EU amending Directive 2011/92/EU. The Board considered that the main significant direct and indirect effects of the proposed development on the environment are those arising from the impacts listed below.

The Board considered that the main significant direct and indirect effects of the proposed development on the environment are, and will be mitigated as follows:

- Significant direct positive effects with regard to population and material assets due to the increase in the housing stock that it would make available in the urban area as well as additional retail activity at town centre location.
- A significant direct effect on land by the change in the use and appearance of a relatively large area of underutilised greenfield site to residential and retail use. Given the location of the site within the built-up area and the public need for housing in the region, this effect would not have a significant negative impact on the environment.

- Potential significant effects on soil during construction, which will be mitigated by the re-use of material on the site and the removal of potentially hazardous material from the site, and the implementation of measures to control emissions of sediment to water and dust to air during construction.
- Potential effects arising from noise and vibration during construction which will be mitigated by appropriate management measures including implementation of Construction and Environmental Management Plans.
- Potential effects on air during construction which will be mitigated by a dust management plan including a monitoring programme with no significant residual effects.
- Biodiversity impacts mitigated by retention of trees, additional planting/landscaping, buffer zone along riverbank, bat boxes, additional surveys and monitoring pre and during construction, and appropriate work practices with no significant residual effects.
- Potential indirect effects on water which will be mitigated during the occupation of the development by the proposed system for surface water management and attenuation with respect to stormwater runoff and the drainage of foul effluent to the public foul sewerage system, and which will be mitigated during construction by appropriate management measures to control the emissions of sediment to water with no significant residual effects.
- Construction traffic impacts mitigated by the management of construction traffic by way of Construction and Environmental Management Plans.
- Archaeology and Architectural Heritage would be mitigated by archaeological monitoring during construction. Given the location of the site within the urban area no significant adverse direct, indirect or cumulative effects are likely to arise.
- A positive effect on the streetscape as the proposed development would improve the amenity of the land through the provision of dedicated public open spaces and improved public realm.

The EIAR has considered that the main significant direct and indirect effects of the proposed development on the environment would be primarily mitigated by environmental management measures, as appropriate. The likely significant environmental effects arising as a consequence of the proposed development have therefore been satisfactorily identified, described and assessed.

The Board completed an environmental impact assessment in relation to the proposed development and concluded that, subject to the implementation of the mitigation measures proposed in each chapter of the Environmental Impact Assessment Report, and, subject to compliance with the conditions set out herein, the effects on the environment of the proposed development by itself and cumulatively with other development in the vicinity would be acceptable. In doing so, the Board adopted the report and conclusions of the reporting inspector.

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 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. In coming to this conclusion, specific regard was had to the Chief Executive Report from the Planning Authority.

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.

Reason: In the interest of clarity.

2. The mitigation measures contained in the submitted Natura Impact Statement (NIS) shall be implemented.

Reason: To protect the integrity of European Sites.

3. The mitigation measures contained in the submitted Environmental Impact Assessment Report (EIAR) shall be implemented.
Reason: To protect the Environment.
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.
Reason: In the interest of visual amenity.
5. Proposals for an apartment naming / 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 names 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 place names for new residential areas.
6. 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.
7. Prior to commencement of the development, the developer shall submit a phasing plan for the proposed development to the planning authority for written agreement. This plan shall include provision for the completion and availability to the public of (i) the riverside public open space and (ii) the pedestrian/cycleway connection to the R611/ Main Street prior to the occupation of 50% of the residential component of the development.

Reason: In the interest of orderly development and to provide for amenities in tandem with new housing development

8. The site shall be landscaped in accordance with the submitted scheme of landscaping, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The landscaping proposal shall have particular regard to the boundary treatment with the adjoining dwellings to the south of the site in particular Cahirmore. The developer shall retain the services of a suitably qualified Landscape Architect throughout the life of the site development works. The approved landscaping scheme shall be implemented fully in the first planting season following completion of the development or each phase of the development and any plant materials that die or are removed within three years of planting shall be replaced in the first planting season thereafter.

Reason: In the interest of residential and visual amenity.

9. Prior to the commencement of any work on site, the developer:
- i) shall engage the services of an independent, qualified arborist, for the entire period of construction activity.
 - ii) shall inform the planning authority in writing of the appointment and name of the consultant. The consultant shall visit the site at a minimum on a monthly basis, to ensure the implementation of all of the recommendations in the revised tree reports and plans, once agreed.
 - iii) shall ensure the protection of trees to be retained
 - iv) submit photographs and confirmation that fencing for retained trees meets BS5837:2012 "Trees in Relation to Design, Demolition and Construction – Recommendations" for the written agreement of the Planning Authority.
 - v) All works on retained trees shall comply with proper arboricultural techniques conforming to BS 3998:2010 Tree Work – Recommendations. To ensure and give practical effect to the retention, protection and sustainability of trees during and after construction of the permitted development.
 - vi) The clearance of any vegetation including trees and scrub shall be carried out outside the bird-breeding season (1st day of March to the 31st day of August inclusive) or as stipulated under the Wildlife Acts 1976 and 2000.

vii) The arborist shall carry out a post construction tree survey and assessment on the condition of the retained trees and submit same to the planning authority.

Reason: To ensure the retention, protection and sustainability of trees during and after construction of the permitted development.

10. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company or such other security as may be accepted in writing by the planning authority, to secure the protection of the trees on site and to make good any damage caused during the construction period, coupled with an agreement empowering the planning authority to apply such security, or part thereof, to the satisfactory protection of any tree or trees on the site or the replacement of any such trees which die, are removed or become seriously damaged or diseased within a period of [three] years from the substantial completion of the development with others of similar size and species. 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 secure the protection of the trees on the site.

11. Public lighting shall be provided in accordance with a scheme, 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 apartments. The lighting scheme shall form an integral part of landscaping of the site.

Reason: In the interests of protection of bats, public safety and amenity, to prevent light pollution.

12. All service cables associated with the proposed development such as electrical, telecommunications and communal television shall be located underground. 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.

13. A minimum of 10% of all car parking spaces should be provided with EV charging stations/points, and ducting shall be provided for all remaining car parking 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 have not been submitted with the application, in accordance with the above noted requirements, the development shall submit 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.

14. The internal road network serving the site including set down areas, footpaths and kerbs, adjoining hotel and the underground car park and ramps to same shall be in accordance with the detailed construction standards of the planning authority for such works and design standards outlined in DMURS. Details of signage in relation to cycle parking and safe access to same should also be submitted for agreement with the planning authority prior to commencement of development.

Reason: In the interest of amenity and of traffic and pedestrian safety.

15. Prior to the commencement of development, the hours of operation of the creche facility and the retail units included in the development shall be agreed in writing with the Planning Authority.

Reason: In the interest of amenity and orderly development.

16. Revised drainage layouts shall be submitted to the planning authority which clarify what alteration if any is being made to the existing open drainage channel adjoining the eastern boundary of the portion of the site with frontage along Kilmoney Road Lower and that adjoins the existing dwelling Cahirmore. In addition, such measures shall ensure that the existing drainage to such from the adjoining dwellings is not interrupted by the proposed development. These details should be submitted to the Planning Authority and agreed in writing prior to the commencement of development.

Reason: In the interests of orderly development.

17. The construction of the development shall be managed in accordance with a Construction Management Plan and Environmental Management Construction 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 hours of working, noise and dust management measures, traffic management arrangements/ measures and off-site disposal of construction/demolition waste.

Reason: In the interests of public safety.

18. Construction and demolition waste shall be managed in accordance with a construction and demolition waste management plan and construction environmental 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 for the preparation of resource & waste management plans for construction & demolition projects' published by the Environmental Protection Agency in 2021.

Reason: In the interest of sustainable waste management.

19. 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. The developer shall consult with the planning authority prior to the commencement of development in this regard.

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

20. Prior to the commencement of development, the developer shall enter into water and waste-water connection agreement(s) with Irish Water.

Reason: In the interest of public health.

21. (a) The communal open spaces, including hard and soft landscaping, car parking areas and access ways, 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 in the interest of residential amenity.

22. Site development and building works shall be carried out only between the hours of 0700 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.

23. A plan containing details for the management of waste within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials 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.

24. (a) Prior to the commencement of 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, that restricts all relevant residential 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.

(b) An agreement pursuant to Section 47 shall be applicable for the period of duration of the planning permission, except where after not less than two years from the date of completion of each specified housing unit, it is demonstrated to the satisfaction of the planning authority that it has not been possible to transact each of the residential units for use by individual purchasers and/or to those eligible for the occupation of social and/or affordable housing, including cost rental housing.

(c) The determination of the planning authority as required in (b) shall be subject to receipt by the planning and housing authority of satisfactory documentary evidence from the applicant or any person with an interest in the land regarding the sales and

marketing of the specified housing units, in which case the planning authority shall confirm in writing to the applicant or any person with an interest in the land that the Section 47 agreement has been terminated and that the requirement of this planning condition has been discharged in respect of each specified housing unit.

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 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.

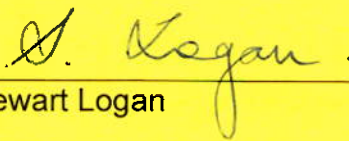
Reason: To comply with the requirements of Part V of the Planning and Development Act 2000, as amended, and of the housing strategy in the development plan of the area.

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 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


Stewart Logan

Date: 05/09/2024