

An
Bord
Pleanála

Board Direction
BD-017412-24
ABP-314277-22

The submissions on this file and the Inspector's report were considered at a Board meeting held on 05/09/2024.

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 coming to its decision, the Board had regard to the following:

- a) the location of the site within the Victoria Cross Road area of Cork city with a land-use zoning objective for 'ZO 01 – Sustainable Residential Neighbourhoods' under the Cork City Development Plan 2022-2028;
- b) the policies and objectives of the Cork City Development Plan 2022-2028;
- c) the nature, scale and design of the proposed development and the availability in the area of infrastructure;
- d) the pattern of existing and permitted development in the area;
- e) the Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities issued by the Department of Housing, Local Government and Heritage in 2024;
- f) the Climate Action Plan issued by the Government of Ireland in 2024;

- g) the Design Manual for Urban Roads and Streets (DMURS) issued by the Department of Transport, Tourism and Sport and the Department of Environment, Community and Local Government in 2019;
- h) Project Ireland 2040 - National Planning Framework issued by the Department of Housing, Planning and Local Government in February 2018;
- i) the Urban Development and Building Heights Guidelines for Planning Authorities issued by the Department of Housing, Planning and Local Government in December 2018;
- j) the National Student Accommodation Strategy issued by the Department of Education in July 2017;
- k) Circular PL 8/2016 & APH 2/2016 issued by the Department of Housing, Planning, Community and Local Government in July 2016;
- l) the provisions of the Architectural Heritage Protection Guidelines for Planning Authorities issued by the Department of Arts, Heritage and the Gaeltacht in October 2011;
- m) the provisions of the Planning System and Flood Risk Management Guidelines for Planning Authorities (including the associated Technical Appendices) issued by the Department of Environment, Heritage and Local Government in 2009;
- n) the Guidelines on Residential Development for 3rd Level Students (Section 50 of the Finance Act 1999) issued by the Department of Education and Science in 1999;
- o) the submissions and observations received;
- p) the report of the Planning Inspector.

Appropriate Assessment Screening

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 and observations on file, the information submitted as part of the subject application Stage 2 Appropriate Assessment - Natura Impact Statement and application documentation, and the Planning Inspector's report. In completing the screening exercise, the Board agreed with and adopted the report of the Planning Inspector and concluded that, by itself or in combination with other development, plans and projects 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 for European Site No. 004030 (Cork Harbour Special Protection Area).

Appropriate Assessment

The Board considered the Stage 2 Appropriate Assessment - Natura Impact Statement, and all other relevant submissions and carried out an appropriate assessment of the implications of the proposed development for European Site No. 004030 (Cork Harbour Special Protection Area), in view of the sites' 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 sites' Conservation Objectives using best available scientific knowledge in the field.

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

- (i) the likely direct and indirect impacts arising from the proposed development, both individually or in combination with other plans or projects,
- (ii) the mitigation measures that are included as part of the current proposal, and
- (iii) the Conservation Objectives for the European Sites.

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 Site, 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 site's 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 Impact Assessment Screening Report submitted by the applicant, which contains information set out in Schedule 7A to the Planning and Development Regulations 2001, as amended, identifies and describes adequately the direct, indirect, secondary and cumulative effects of the proposed development on the environment.

Having regard to:

- the nature and scale of the proposed development, which is below the thresholds in respect of classes 10(b)(i), 10(b)(iv) and 14 of Part 2 to Schedule 5 of the Planning and Development Regulations 2001, as revised;
- the location of the proposed housing development on lands zoned within the Cork City Development Plan 2022-2028 as 'ZO 01 - Sustainable Residential Neighbourhoods', 'with a stated objective 'to protect and provide for residential uses and amenities, local services and community, institutional, educational and civic uses';
- the nature of the existing site and the existing and permitted pattern of development in the surrounding area;
- the availability of mains water and wastewater services to serve the proposed development;
- the location of the development outside of any sensitive location specified in Article 299C(1)(a)(v) of the Planning and Development Regulations 2001, as revised;
- 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);

- the criteria set out in Schedule 7 of the Planning and Development Regulations 2001, as revised, and;
- the features and measures proposed by the developer that are envisaged to avoid or prevent what might otherwise be significant effects on the environment, including measures identified to be provided as part of the project Construction Environmental Management Plan, Construction and Demolition Waste Management Plan, Student Accommodation Management Plan, Ecological Impact Assessment, Flood Risk Assessment and the Engineering Services Report.

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

Conclusions on Proper Planning and Sustainable Development

The Board considered that, subject to compliance with the conditions set out below, the proposed development would constitute an acceptable density of development in this location, would not seriously injure the residential or visual amenities of the area or of property in the vicinity, would be acceptable in terms of urban design, height and scale of development, would be acceptable in terms of impacts on traffic, would not detrimentally impact on the built heritage of the area, would provide an acceptable form of residential amenity for future occupants, would not be at risk of flooding, or increase the risk of flooding to other lands and would be capable of being adequately served by wastewater and water supply networks.

The Board considered that the proposed development would be compliant with the provisions of the Cork City Development Plan 2022-2028, and 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 proposed development shall be amended as follows:
 - a) the proposed building shall be set back eastwards into the site a maximum of 0.6 metres along the front boundary to Victoria Cross Road / Wilton Road to provide a total maximum width of 20.6 metres for the transport infrastructure corridor along Victoria Cross Road / Wilton Road fronting the site;
 - b) the proposed vehicular set-down space, public amenity walking / cycle and emergency route, footpaths and the pedestrian crossing on Orchard Road shall be repositioned and rearranged in line with the requirements of the Planning Authority;
 - c) the finished level to the ground-floor in the proposed buildings shall be a minimum of 5.9 metres above ordnance datum;
 - d) the surface-level external amenity space and the public amenity walking / cycle route shall be separated by the provision of a boundary treatment;
 - e) final details of the metal cladding on the east side of the balconies at the north east corner of the building (second floor to fifth floor level) shall be submitted to and agreed in writing with the planning authority, to enable sufficient light penetration to these balcony areas, whilst ensuring no overlooking of neighbouring property .

Revised drawings and details showing compliance with these requirements shall be submitted to, and 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 interests of the amenities of future occupiers of the units, traffic and road safety, flood risk management, proper planning and sustainable development.

3. Mitigation and monitoring measures outlined in the Natura Impact Statement, shall be implemented in full.

Reason: In the interest of protecting the environment.

4. Mitigation and monitoring measures outlined in the plans and particulars submitted with the application, including the Construction Environmental Management Plan, the Ecological Impact Assessment, and the Flood Risk Assessment, shall be carried out in full, except where otherwise required by conditions attached to this permission.

Construction management measures along the riparian corridor shall be developed in consultation with the Planning Authority and Inland Fisheries Ireland, and shall be in compliance with 'Guidelines on Protection of Fisheries during Construction Works in and Adjacent to Waters' issued by Inland Fisheries Ireland in 2016.

Reason: In the interest of protecting the environment and in the interest of public health.

5. The proposed development shall be used for student accommodation or accommodation related to a Higher Education Institute or tourist / visitor accommodation only during academic holiday periods, and shall not be used for the purposes of permanent residential accommodation, as a hotel, hostel, apart-hotel or similar use, without a prior grant of permission.

Reason: In the interests of the proper planning and sustainable development of the area, and in accordance with the details submitted with the planning application, including the Student Accommodation Management Plan.

6. The proposed development shall be implemented as follows:

- a) the student accommodation and complex shall be operated and managed in accordance with a final Student Accommodation Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development;
- b) student units / apartments shall not be amalgamated or combined;
- c) public access along the amenity walking / cycle route through the site, as detailed in the Proposed Site Layout Plan submitted with the application (drawing number A01-10 Revision A), shall be available at all times unless otherwise agreed in writing with the planning authority;
- d) access to the proposed communal roof terrace shall be restricted to occupants of the scheme between the hours of 07:00 and 22:00 only.

Reason: In the interest of the amenities of the public, the occupiers of the units and surrounding residential properties.

7. During the operational phase of the proposed development:

- a) The LAeq level measured over 15 minutes (daytime) or five minutes (night-time) at a noise-sensitive premises when plant associated with the development is operating, shall not exceed the LA₉₀ (15 minutes day or five minutes night), by five decibels or more, measured from the same position, under the same conditions and during a comparable period with no plant in operation.
- b) There shall be no speakers located externally or in such a way that music played on the premises is audible outside the premises.

Reason: In the interest of public health and the amenity of residents.

8. Details of the materials, colours and textures of all the external finishes to the proposed buildings and hard landscaping shall be as submitted with the application, unless otherwise agreed in writing with the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

9. Cycle parking facilities serving the proposed development and the public amenity route through the site, shall comply with the provisions of the Cycle Design Manual issued by National Transport Authority in 2023. Electric charging facilities shall be provided for cycle parking within the scheme. Plans and particulars showing compliance with this requirement shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of sustainable travel and the amenities of future occupiers.

10. Proposals for a development name and numbering scheme and any associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all signs, and unit numbers, shall be provided in accordance with the agreed scheme. The proposed name(s), in Irish and English, shall be based on local historical or topographical features, or other alternatives acceptable to the planning authority.

Reason: In the interest of urban legibility and to ensure the use of locally appropriate place names for new residential areas.

11. 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 agreed in writing with the planning authority.

Reason: To protect the amenities of property in the vicinity and the visual amenities of the area.

12. Prior to commencement of development, the developer shall enter into water and wastewater connection agreements and other necessary agreements with Uisce Éireann, including future access, maintenance / excavation of the existing 1,050mm wastewater infrastructure / corridor running through the site.

Reason: In the interest of public health.

13. (a) Drainage and water supply arrangements including the connection to the water main supply network and the attenuation and disposal of surface water,

shall comply with the requirements of the planning authority for such works and services.

(b) 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.

(c) Upon Completion of the development, a Stage 3 Completion Stormwater Audit to demonstrate 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.

(d) A maintenance policy to include regular operational inspection and maintenance of the Sustainable Urban Drainage System infrastructure and the fuel interceptors shall be submitted to and agreed in writing with the Planning Authority prior to the occupation of proposed development and shall be implemented in accordance with that agreement.

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

14.(a) The communal open spaces, including hard and soft landscaping, cycle parking areas and access routes, 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 units are made available for occupation.

Reason: To provide for the satisfactory future maintenance of this development.

15.(a) The developer shall comply with all requirements of the Planning Authority in relation to cycling and pedestrian infrastructure, roads, access and set-down parking arrangements.

(b) The internal access network serving the proposed development, including turning bays, junctions, set-down parking space, footpaths and kerbs, shall be in accordance with the detailed construction standards of the planning authority for such works and design standards outlined in the Design Manual for Urban Roads and Streets.

(c) All findings of the submitted Road Safety Audit for the proposed development shall be incorporated into the development, unless otherwise agreed in writing with the planning authority.

In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

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

- 16.** A Quality Audit (which shall include a Road Safety Audit, Access Audit, Cycle Audit and a Walking Audit) shall be carried out at Stage 2 for the detailed design stage and at Stage 3 for the post-construction stage of the development. All audits shall be carried out at the developer's expense in accordance with the Design Manual for Urban Roads and Streets, and Transport Infrastructure Ireland standards. The independent audit team(s) shall be approved in writing by the planning authority and all measures recommended by the Auditor(s) shall be implemented unless the planning authority approves a departure in writing. The Stage 2 Audit reports shall be submitted to and agreed with the planning authority prior to the commencement of development.

Reason: In the interest of traffic safety and proper planning and sustainable development.

- 17.** The landscaping scheme shown on the Landscape Layout (drawing numbers 2130-LA-P001 and 2130-LA-P002) and the application Landscape Design Rational, shall be carried out within the first planting season following substantial completion of the external construction works.

Details of proposed boundary treatments at the perimeter of the site, including heights, materials and finishes, shall be submitted to and agreed in writing with the planning authority, prior to commencement of development, and subsequently implemented in accordance with the agreed scheme.

All planting shall be adequately protected from damage until established. Any plants that die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development or until the development is taken in charge by the local authority, whichever is the sooner, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority. This work shall be completed before any of the units are made available for occupation and the areas shall be maintained as public open space by the developer until taken in charge by the local authority or a management company.

Reason: In the interest of environmental, residential and visual amenity.

18. Prior to commencement of development, all trees that are to be maintained as part of the proposed development shall be enclosed within stout fences not less than 1.5 metres in height. 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, and shall be maintained until the development has been completed.

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 maintained 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.

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

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

20. All service cables associated with the proposed development, such as electrical, telecommunications and communal television cables, shall be located underground. Ducting shall be provided by the developer in accordance with the detailed standards of the planning authority for such works to facilitate the provision of broadband infrastructure within the proposed development.

Reason: In the interests of visual and residential amenity.

21. A plan containing details for the management of waste and recycling 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 for each proposed unit shall be submitted to, and agreed in writing with, the planning authority not later than six months from the date of commencement of the development. Thereafter, the waste and recycling shall be managed in accordance with the agreed plan.

Reason: In the interest of the amenities of the future occupants and neighbouring residents, and to ensure the provision of adequate waste and recycling storage.

22. The developer shall prepare a Resource Waste Management Plan (RWMP) demonstrating that the proposals adhere to best practice and protocols contained in the Environmental Protection Agency's Best Practice Guidelines for the Preparation of Resource and Waste Management Plans for Construction and Demolition Projects (2021). The RWMP shall include specific proposals as to how it will be measured and monitored for effectiveness and these details shall be placed on file and retained as part of the public record. Prior to commencement of the development, the RWMP shall be submitted to, and agreed in writing with, the planning authority. 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.

Reason: In the interest of sustainable waste management.

23. The construction of the development shall be managed in accordance with a final project 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 the construction practice for the development, including:

- (b) Location of the site and materials compound(s), including areas identified for the storage of construction waste;
- (c) Location and details of areas for construction site offices, staff facilities, site security fencing and hoardings;
- (d) Details of on-site car parking facilities for site workers during the course of 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) Details of construction phase mobility strategy, incorporating onsite mobility provisions;
- (h) Measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network;
- (i) Alternative arrangements to be put in place for pedestrians, cyclists and vehicles in the case of the closure of any public road or footpath during the course of site development works;
- (j) Details of appropriate measures to mitigate vibration from construction activity in accordance with BS6472: 1992 Guide to Evaluation of Human Exposure to Vibration in Buildings (1Hz to 80Hz) and BS7385: Part 2 1990: Evaluation and Measurement for Vibration in Buildings - Guide to Damage Levels from Ground-Borne Vibration, and for the monitoring of such levels;
- (k) Details of appropriate mitigation measures for noise and dust, and monitoring of such levels;

- (l) 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;
- (m) Off-site disposal of construction / demolition waste and details of how it is proposed to manage excavated soil;
- (n) A record of daily checks that the works are being undertaken in accordance with the final project Construction and Environmental Management Plan shall be kept for inspection by the planning authority;

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

- 24.** Site development and building works shall be carried out only between the hours of 07:00 to 19:00 Mondays to Fridays inclusive and 08:00 to 14:00 on Saturdays, and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where proposals have been submitted and agreed in writing with the Planning Authority.

Reason: In order to safeguard the residential amenities of property in the vicinity.

- 25.** 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

26. Public lighting shall be provided in accordance with a final scheme, which shall include lighting for the public amenity walking / cycle route, open spaces and set down / servicing areas, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The design of the lighting scheme shall take into account the existing and permitted public lighting in the surrounding area, as well as the requirements outlined in the application Ecological Impact Assessment. Such lighting shall be provided prior to the making available for occupation of any unit within the proposed development.

Reason: In the interests of amenity, the environment and public safety.

27. 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

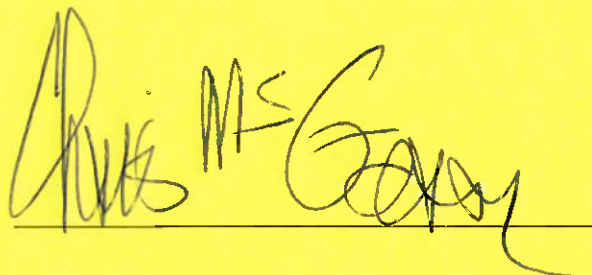
or, in default of agreement, shall be referred to An Bord Pleanála for determination.

Reason: To ensure the satisfactory completion and maintenance of the development until taken in charge.

28. 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

A handwritten signature in black ink, appearing to read 'Chris McGarry', written over a horizontal line.

Date: 16/09/2024

Chris McGarry