

An
Bord
Pleanála

Board Direction
BD-014876-23
ABP-314310-22

The submissions on this file and the Inspector's report were considered at a Board meeting held on 18/12/2023.

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

Reasons and Considerations

Having regard to the location of the site close to Cork city centre, within an established built-up area on lands with zoning objective ZO 04: Mixed Use Development which seeks 'To provide and promote a mix of residential and other uses to ensure the creation of a vibrant and sustainable urban area' in the Cork City Development Plan 2022-2028; to the nature, scale and design of the proposed development, to the availability in the area of a wide range of social, community and transport infrastructure; to the pattern of existing and permitted development and the planning history within the area, it is considered that, subject to compliance with the conditions set out below, the proposed development would constitute an acceptable level of development in this urban location, would respect the existing character of the area, 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 traffic and pedestrian safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

Appropriate Assessment Screening Determination

The proposed development was considered in light of the requirements of Section 177U of the Planning and Development Act 2000 as amended. Having carried out Screening for Appropriate Assessment of the project, the Board concluded that the proposed development, either individually or in combination with other plans or projects would not be likely to have a significant effect on any designated European Sites, in the view of the sites' Conservation Objectives, and Appropriate Assessment (and the submission of a NIS) is not therefore required.

Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by Further Information received by the planning authority on the 6th of April 2022 and by the response to the appeal received by An Bord Pleanála on the 6th of September 2022, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. The floor layouts of the second, third and fourth floors of Block B of the development shall be amended to ensure that not more than 24 apartments are located on each floor. This will require the amalgamation of units at each of these three floor levels and a reduction in the number of apartments at each floor level by 2, to 24, and the reduction of the number of units in the overall development from 196 to 190.

Revised floor plans, elevations and sections detailing the above changes, shall be submitted and agreed in writing with the planning authority prior to the commencement of development.

Reason: To comply with the requirements of Sustainable Urban Housing Design Standards for New Apartments Guidelines for Planning Authorities (2022) and in the interest of residential amenity.

3. The following requirements for the frontage of the development to the Loughmahon Link Road (R852) shall be adhered to in the development:
 - (a) a corridor 3 metres in width from the existing edge of footpath shall be reserved for future sustainable transport infrastructure along the frontage of the development site
 - (b) the southernmost of the two existing vehicular entrance points to the site from the R852 shall be retained as a means of access for pedestrians and cyclists only with an appropriate entrance design

Prior to the commencement of development, specific design details and revised site layout shall be submitted to and agreed in writing with the planning authority in this regard.

Reason: to provide for sustainable transport infrastructure as proposed under the cork metropolitan area transport strategy and in the interest of traffic and pedestrian safety.

4. No habitable part of the proposed development shall be constructed within 52.6m of the southwestern external elevation of the Ballinure Header Chamber building.

Reason: In the interest of public health

5. Drainage arrangements for the development including the (i) attenuation and disposal of surface water (ii) siting and design of the water supply and waste water networks and (iii) the appropriate safeguarding of existing infrastructure and wayleaves on the site shall be agreed in writing with the planning authority prior to the commencement of development.

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

6. Prior to the commencement of development, a landscaping scheme for the site shall be submitted to, and agreed in writing with, the planning authority including details of:
- (a) open space, communal and play areas
 - (a) boundary and landscaping treatments around the perimeter of the site
 - (b) paving materials, seating and lighting.

The agreed details shall be undertaken and completed prior to the occupation of the proposed development. The developer shall retain the services of a suitably qualified Landscape Architect throughout the life of the site development works.

Reason: In the interest of visual and residential amenity.

7. The developer shall notify the Irish Aviation Authority of their intention to commence any crane activities on site with a minimum of 30 days prior notification of their erection.

Reason: In the interest of orderly development.

8. Details of the materials, colours and textures of all the external finishes to the proposed apartment blocks shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Such details shall include:

- (a) details of a maintenance strategy for materials
- (b) samples erected on site for inspection

Reason: In the interest of visual amenity.

9. All recommendations of the Mobility Management Plan and Traffic and Transport Assessment, as updated, shall be undertaken in full, prior to the occupation of any blocks. The developer shall submit details on traffic and access matters for the written agreement of the planning authority prior to the commencement of development, to include the following matters:

- (a) The total car parking supply shall not exceed 74 car parking spaces for the full development.
- (b) A minimum of 442 cycle parking spaces are to be provided.

(c) Bike storage facilities shall be provided in dedicated and secured areas of permanent construction, within the building footprint

Reason: In the interests of traffic safety and to ensure a satisfactory standard of development.

10. The applicant or developer shall enter into water and waste water connection agreement(s) with Uisce Éireann, prior to commencement of development.

Reason: In the interest of public health

11. Proposals for naming the development and a unit numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all signage, shall be provided in accordance with the agreed scheme. The proposed name(s) 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 placenames for new residential areas.

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. The site development and construction works shall be carried out in such a manner as to ensure that the adjoining roads are kept clear of debris, soil and other material, and cleaning works shall be carried on the adjoining public roads by the developer and at the developer's expense on a daily basis.

Reason: To protect the amenities of property in the vicinity.

14. The construction of the development shall be managed in accordance with a Final Construction and Waste Management Plan, which shall be submitted to, and agreed

in writing with the planning authority prior to commencement of development. This plan shall provide inter alia: details and location of proposed construction compounds, details of intended construction practice for the development, including hours of working, noise management measures, details of arrangements for routes for construction traffic, parking during the construction phase, and off-site disposal of construction/demolition waste and/or by-products.

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

15. The internal road network serving the proposed development, including turning bays, junctions, parking areas, 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 In particular:
- a) The roads and traffic arrangements serving the site (including signage) shall be in accordance with the detailed requirements of the planning authority for such works and shall be carried out at the developer's expense.
 - b) The roads layout shall comply with the requirements of the Design Manual for Urban Roads and Streets, in particular carriageway widths and corner radii;
 - c) Pedestrian crossing facilities shall be provided at all junctions;
 - d) The materials used in any roads / footpaths provided by the developer shall comply with the detailed standards of the Planning Authority for such road works.

Reason: In the interests of traffic, cyclist and pedestrian safety and to protect residential amenity.

16. The proposed development shall make provision for the charging of electrical vehicles. All car parking spaces serving the development shall be provided with electrical connections, to allow for the provision of future charging points and in the case of 10% of each of these spaces, shall be provided with electrical charging points by the developer. Details of how it is proposed to comply with these requirements, including details of design of, and signage for, the electrical charging points and the provision for the operation and maintenance of the charging points shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: in the interests of sustainable transportation.

17. 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. Such lighting shall be provided prior to the making available for occupation of any apartments or the creche.
Reason: In the interests of amenity and public safety.
18. The proposed creche facility shall be completed and available for occupation prior to the occupation of the 75th residential unit within the overall scheme.
Reason: In the interest of clarity.
19. A plan containing details for the management of waste within the apartment 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.
20. Prior to the commencement of development, the applicant shall submit to the planning authority for written agreement revised plans and sections and any other relevant information detailing the location of any proposed manholes, pipe diversions and pipe stop ends to be installed in respect of the existing foul and surface water piped infrastructure that is currently located within the application site and is connected to piped infrastructure on the property to the immediate south, and which is proposed to be decommissioned within the application site as part of the development.
The details, shall include (if applicable) a copy of any agreement reached with the landowner to the south, as to the location of any diverted pipe infrastructure, the pipe stop ends and maintenance manholes. If the new or diverted infrastructure is to be retained within the application site, provide confirmation that access to the infrastructure will be available to the adjacent landowner for inspection and maintenance purposes.

Reason: In the interest of clarity and public health.

21. Prior to the commencement of development, the applicant shall submit to the planning authority for written agreement revised plans and sections, and any other relevant details, identifying whether or not the existing fire hydrant located within the site, close to the southwestern boundary, will be (i) retained in situ (ii) will be relocated elsewhere within the application site or (iii) will be relocated within the boundary of the adjacent property to the immediate south.

These details will include, if applicable, any access agreement reached with the adjoining landowner that will facilitate unobstructed access to the fire hydrant if retained in situ or within the application site, or if the hydrant is to be relocated within the lands to the south, submit a copy of a written agreement between the parties.

Reason: In the interest of clarity and public health.

22. 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.

Reason: In the interest of sustainable waste management.

23. 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.

24. Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Saturdays inclusive, 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.

25. The development shall be maintained by a legally-constituted management company. Details of the management company contract, and drawings/particulars describing the parts of the development for which the legally-constituted management 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. The management scheme shall include adequate measures for the future maintenance of public open spaces, roads and communal areas.

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

26. 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.

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

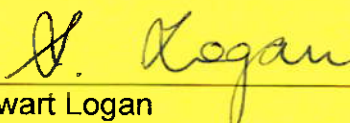
secure the reinstatement of public roads which may be damaged by the transport of materials to the site, to secure the provision and satisfactory completion of roads, footpaths, watermains, drains, open space and other services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion 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 of the development.

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


Stewart Logan

Date: 21/12/2023

Note:

The Board noted the recommendation of the Inspector to include a condition that required the first occupiers of the proposed apartments to be individual purchasers who are not a corporate entity. This condition was also attached by the planning authority in its decision. However, having regard to the consideration of the planning authority that the principle of residential development on this site is acceptable in terms of proper planning and sustainable development, the Board did not consider that such a condition was warranted in the context of the proposed housing scheme being entirely comprised of higher density apartment development and its location within an area where the totality of relevant policy supports the provision of residential use.

