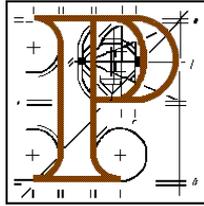


An Bord Pleanála



PLANNING AND DEVELOPMENT ACTS 2000 TO 2015

Cork City

Planning Register Reference Number: 16/36931

An Bord Pleanála Reference Number: PL 28.247182

APPEAL by Stefanie Dinkelbach and Brendan Roycroft of 2 Saint Mary's Villas, Western Road, Cork and by others and by Ziggurat RoI No. 2 LP care of McCutcheon Halley Walsh of 6 Joyce House, Barrack Square, Ballincollig, County Cork against the decision made on the 11th day of August, 2016 by Cork City Council to grant subject to conditions a permission to Ziggurat RoI No. 2 LP in accordance with plans and particulars lodged with the said Council.

PROPOSED DEVELOPMENT: The development will consist of student accommodation development comprising the construction of 30 number apartments (ranging in size between four to eight bedrooms), with reception, management facilities, media and meeting/communal areas and all associated ancillary development including plant and equipment, substation, switchroom, recycling/refuse storage, landscaping, vehicular and pedestrian access, bicycle and car parking. The proposed development ranges in height from four to six storeys, all at the site of the former Muskerry Service Station, Western Road, Cork.

DECISION

GRANT permission for the above proposed development in accordance with the said plans and particulars based on the reasons and considerations under and subject to the conditions set out below.

MATTERS CONSIDERED

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.

REASONS AND CONSIDERATIONS

Having regard to the planning history of the site, to its prominent location, to the zoning for the site, to its proximity to the University College Cork campus and to the pattern of development in the area, the Board considered that the proposed development is appropriate to its setting and location, would not adversely affect the visual or residential amenity of the area would not be prejudicial to public health and would, therefore, be in accordance with the proper planning and sustainable development of the area.

In deciding not to accept the Inspector's recommendation to refuse permission, the Board had regard to the location of the site in the inner suburbs of Cork, to the prominent location of the site and to the pattern of development in the area and considered that the proposed development would be acceptable in terms of its scale and design.

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 and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. This permission is for student accommodation (and ancillary uses, as permitted) only. No permission is granted for any other type of use, and no change of use shall take place – including change of use to other types of residential accommodation – without a prior grant of permission from the planning authority or An Bord Pleanála.

Reason: In order to define the scope of the permission and in order to comply with Objective 6.5 of the Cork City Development Plan 2015-2021.

3. (a) The proposed fifth floor shall be omitted from the proposed development.

(b) The balconies located at the south western corner of the structure fronting the river shall be relocated to the southern elevation so as not to cause overlooking of adjoining properties to the west.

Revised drawings showing these alterations shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development on site.

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

4. A sample board of all external finishes shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

5. Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health.

6. A comprehensive boundary treatment and landscaping scheme shall be submitted to, and agreed in writing with, the planning authority, prior to commencement of development. This scheme shall include the following: -

- (a) details of all proposed hard surface finishes, including samples of proposed paving slabs/materials for footpaths, kerbing and road surfaces within the development;
- (b) proposed locations of trees and other landscape planting in the development, including details of proposed species and settings;
- (c) details of proposed street furniture, including bollards, lighting fixtures and seating;
- (d) details of proposed boundary treatments at the perimeter of the site, including heights, materials and finishes.

The boundary treatment and landscaping shall be carried out in accordance with the agreed scheme.

Reason: In the interest of visual amenity.

7. (a) Full details of legally incorporated management company which shall be responsible for the future maintenance and upkeep of all services within the development site including drains, sewers, watermains, public lighting, paths, roads, open spaces and refuse storage areas shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.
- (b) A revised Management Plan for the development shall be submitted to, and agreed with, the planning authority which details proposals to provide 24 hour on-site management of the units, prior to commencement of development.

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

8. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including:
- (a) Location of the site and materials compounds including areas identified for the storage of construction refuse;
 - (b) Location of areas for construction site offices and staff facilities;
 - (c) Details of site security fencing and hoardings;
 - (d) Details of on-site car parking facilities for site workers during 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) Measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network;
 - (h) Alternative arrangements to be put in place for pedestrians and vehicles in the case of the closure of any public road or footpath during the course of site development works;
 - (i) Provision of parking for existing properties during the construction period;
 - (j) Details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels;
 - (k) 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;
 - (l) Off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil;

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

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

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

- 9. Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the “Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects”, published by the Department of the Environment, Heritage and Local Government in July 2006. The plan shall include details of waste to be generated during site clearance and construction phases, and details of the methods and locations to be employed for the prevention, minimisation, recovery and disposal of this material in accordance with the provision of the Waste Management Plan for the Region in which the site is situated.

Reason: In the interest of sustainable waste management.

- 10.
 - (a) Tree felling and clearing of vegetation shall take place outside of the bird nesting season.
 - (b) The developer shall ensure that any excavated material stockpiled on site during construction shall be held in a manner such as to ensure that no silt or run-off from these stockpiles enters any watercourse.
 - (c) The developer shall ensure that the river banks and their habitats for fish, mammals and birds and are not negatively impacted upon by the construction works.

Reason: In the interest of nature conservation.

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. Such lighting shall be provided prior to the making available for occupation of any apartment.

Reason: In the interest of amenity and public safety.

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 interest of visual and residential amenity.

13. The development hereby permitted shall only be occupied as student accommodation, and for no other purpose, without a prior grant of planning permission for change of use. Such application for permission shall make provision for such additional car parking/communal open space as may be specified by the planning authority.

Reason: In the interest of residential amenity and to limit the scope of the proposed development to that for which the application was made.

14. Works in accordance with the submitted flood risk assessment report for flood defence and including flood mitigation measures for the site shall be carried out. Works shall include actual measures selected to address the risk of flooding within the property, that is, flood defence to minimum level proposed, flood resilience of the building and egress from the building in the event of a flood.

Reason: In the interest of public health.

15. (a) The mitigation measures as outlined in the Otter Assessment shall be implemented;
- (b) The river bank shall be kept as intact as possible to allow for an unbroken path for otters to move and rest along the river bank;

- (c) A physical barrier shall be installed between the proposed development and the river bank during construction and a robust barrier shall be constructed post construction to prevent disturbance to the otters;
- (d) There shall be no artificial lighting near the riverbank or landscaped area post construction;
- (e) Prior to the commencement of any development on site a method statement shall be submitted to, and agreed in writing with, the planning authority outlining how these mitigation measures shall be carried out during and post construction.

Reason: To protect and conserve protected species and the habitats on which they depend.

16. There shall be no interference with, bridging, draining or culverting of the adjacent river or any watercourse, its banks or bankside vegetation to facilitate the development without the written prior approval of Inland Fisheries Ireland. All landscaping works proposed under the application shall be subject to the prior written approval of Inland Fisheries Ireland and details of same shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

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

17. 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.

**Member of An Bord Pleanála
duly authorised to authenticate
the seal of the Board.**

Dated this day of 2017.