



Planning and Development Acts 2000 to 2018

Planning Authority: Cork City Council

Planning Register Reference Number: 18/37794

Appeal by Wilton Residents Association care of John Leahy and others of 71 Wilton Road, Cork and by others against the decision made on the 23rd day of August, 2018 by Cork City Council to grant subject to conditions a permission to Montlake QIAIF Platform ICAV – York Property Fund II care of Butler O'Neill Total Planning Solutions of Thompson House, MacCurtain Street, Cork in accordance with plans and particulars lodged with the said Council.

Proposed Development: A ten-year permission for a mixed-use development on a site of 4.82 hectares. The proposed development consists of: The partial demolition of the existing shopping centre (including the Penneys anchor store located at 56 Homefront) located to the northern end of the existing shopping centre comprising an area of 4,222 square metres and the removal of 420 surface car parking spaces. The proposed development also consists of the construction of an extension to the existing shopping centre ranging in height from two to seven storeys. The proposed extension consists of: Retail and retail services (including cafe/restaurant uses) over three levels comprising 21,223 square metres gross floor area, a 14 screen (1,550 seats), cinema comprising 4,165 square metres gross floor area,

offices comprising 4,398 square metres gross floor area, a 190 number bedroom hotel comprising 9,335 square metres gross floor area, a public plaza and outdoor seating area, a multi-storey car park with six levels providing 874 spaces, a surface car park on the roof of the second storey which is accessed from the multi-storey car park providing 257 spaces and the replacement of 178 surface car parking spaces as well as 227 bike parking spaces and 70 motorbike parking spaces. Also proposed is a new vehicular entrance/egress from Sarsfield Road, as well as the relocation of the existing pedestrian crossing further north on Sarsfield Road. In addition, dedicated floorspace for landlord areas is proposed, including food court seating, toilets, shared cores, general circulation areas and service corridors. The total gross floor area to be constructed of all levels is 66,681 square metres. Permission is sought for the outlined herein including, but not limited to, works in existing accesses, plant areas, Electricity Supply Board substations and mechanical and electrical switchrooms, landscaping and all associated site development works. All at Wilton Shopping Centre, located to the south of Bishopstown Road, to the east of Cardinal Way, and to the west of Sarsfield Road at Wilton, 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.

Environmental Impact Assessment

The Board completed 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 planning authority, the observers and the prescribed bodies in the course of the planning application, and
- (d) the Inspector's report.

The Board considered that the Environmental Impact Assessment Report, supported by the documentation submitted by the applicant, identifies and describes adequately the direct, indirect, secondary and cumulative effects of the proposed development on the environment.

The Board agreed with the examination, set out in the Inspector's report, of the information contained in the Environmental Impact Assessment Report and associated documentation submitted by the applicant and submissions made in the course of the planning application.

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 effect on the landscape. The proposal would make a positive contribution to the urban character of the area. Given the development plan policy considerations and the identification of the site for redevelopment, and given the design and scale of the proposed development which has a strong presence to the public realm, this effect would not have a significant negative impact on the environment.
- Effects on population and human health arising from noise, dust, traffic, excavation and demolition impacts during construction which will be mitigated by a Construction Management Plan including traffic management measures.
- Potential effects on air arising from dust during construction will be mitigated by measures incorporated into a Construction Management Plan including a monitoring programme.

The Board completed an environmental impact assessment in relation to the proposed development and concluded that, subject to compliance with the conditions set out herein, the effects on the environment of the proposed development by itself or in combination with other development in the vicinity would be acceptable. In doing so, the Board adopted the report and conclusions of the Inspector. The Board is satisfied that this reasoned conclusion is up to date at the time of taking this decision.

Appropriate Assessment Screening

The Board completed an Appropriate Assessment Screening exercise in relation to the potential effects of the proposed development on designated European Sites, taking into account the nature, scale and location of the proposed development (being a redevelopment of land within a zoned and serviced university campus in an urban area), the Appropriate Assessment Screening Report submitted with the planning application and the Inspector's report and submissions on file. 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 sites' conservation objectives, and that a Stage 2 Appropriate Assessment is not, therefore, required.

Reasons and Considerations

Having regard to:

- (a) the District Centre zoning of the site in the current Cork City Development Plan,
- (b) Objective 14.6 of the current Cork City Development Plan seeking the regeneration the Wilton District Centre,
- (c) the provisions of the Bishopstown and Wilton Local Area Plan,
- (d) the nature and extent of existing and permitted development on the site and in the vicinity,

- (e) the proposed improvements to the road network and public transport infrastructure in the area, and
- (f) the nature, scale and design of the proposed development including the public realm provision and enhancements,

it is considered that, subject to compliance with the conditions set out below, the proposed development would constitute an appropriate form of development, would not be contrary to the retail policy as set out in the current Cork City Development Plan, would not seriously injure the amenities of the area or of property in the vicinity, would be acceptable in terms of pedestrian and traffic safety and convenience and would 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, as amended by the further plans and particulars submitted on the 29th day of June, 2018, 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. Permission is hereby granted for a period of ten years from the date of this Order.

Reason: In the interest of clarity.

3. The mitigation and monitoring measures set out in Chapter 17 'Summary of Impacts and Mitigation Measures' of the Environmental Impact Assessment Report submitted with this application shall be carried out in full, except where otherwise required by conditions attached to this permission.

Reason: To protect the environment.

4. The proposed development shall be amended as follows:
 - (a) A minimum setback of four metres on Sarsfield Road from the Wilton Roundabout for a distance of 100 metres south.
 - (b) A minimum setback of 3.5 metres on Sarsfield Road from immediately south of the new left in/left out entrance for a distance of 50 metres south.
 - (c) A minimum setback of three metres on Sarsfield Road from the existing Tesco entrance for a distance of 100 metres north.

- (d) A minimum setback of four metres on Bishopstown Road for the full length of the proposed development site on Bishopstown Road.
- (e) The proposed surface car parking to the north and north-west of Wilton Library shall be omitted. A public plaza shall be provided at this location.
- (f) The total number of car parking spaces to be provided within the entire site as delineated in red on the site layout plan accompanying the planning application shall not exceed 1,700 (inclusive of the 408 number surface spaces to be retained in the southern section of the overall site).
- (g) Provision shall be made in relation to allocating a minimum of 5% of parking spaces for users with impaired mobility.
- (h) A minimum of 70 number motorcycle parking spaces and 300 number covered bicycle parking spaces shall be provided.
- (i) A minimum of 10% of the proposed car parking spaces in the multi-storey car park shall be provided with electrical connection points, to allow for functional electric vehicle charging. The remaining car parking spaces in the multi-storey car park shall be fitted with ducting for electric connection points to allow for future fitout of charging points.

Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority following consultation with the National Transport Authority prior to commencement of development.

Reason: In the interest of visual amenity, to facilitate the provision of future public transport infrastructure and to make provision for alternative modes of transport and sustainable patterns of travel.

5. Access to the multi-storey car park shall operate as a free flow entry. No control barriers or other entry constraining techniques shall be installed. Details of the proposed entry system and measures to ensure that the access arrangements do not impact on pedestrian and cyclist safety and bus movements on Sarsfield Road shall be submitted to, and agreed in writing with, the planning authority following consultation with the National Transport Authority prior to commencement of development.

Reason: In the interests of maintaining road capacity and traffic and pedestrian safety.

6. The following details and specifications shall be submitted to, and agreed in writing with, the planning authority following consultation with the National Transport Authority:
 - (a) New left in/left out junction on Sarsfield Road and the pedestrian and cyclist provisions in the vicinity. The layout shall be subject of a Road Safety Audit.

- (b) Relocation of the pedestrian crossing to the south of the new left in/left out junction on Sarsfield Road. The relocation of the pedestrian crossing shall be carried out at the developer's expense and shall be operational prior to the operation of the new entrance.
- (c) Access from Wilton Court shall be provided and aligned with the relocated pedestrian crossing.

Reason: in the interests of traffic and pedestrian safety.

- 7. An internal vehicular route between the multi-storey car park and the existing Tesco entrance shall be developed and shall be operational prior to the operation of the multi-storey car park. Details of the proposed route and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of the movement of traffic within the site.

8. A Mobility Management Strategy Plan shall be submitted to, and agreed in writing with, the planning authority and shall include a car park management strategy. The following measures shall be undertaken:
- (a) The Strategy shall set a target to achieve an improved modal travel split and shall propose specific measures, including any necessary physical interventions on the site or changes to car park management/policies, to achieve the revised modal split target.
 - (b) A Mobility Manager shall be appointed to oversee and co-ordinate the implementation of the plan.
 - (c) A follow-up survey of the modal travel split for all users of the site shall be carried out and submitted to the planning authority within 12 months of the completion of the overall development hereby permitted.

Reason: In the interest of encouraging the use of sustainable modes of transport.

9. The development shall be carried out in accordance with the phasing plan as outlined in the documentation submitted with the planning application.

Reason: In the interest of clarity and to provide for a structure schedule of construction works on the site.

10. A servicing plan for the development shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: To provide for the appropriate servicing of the building.

11. Water supply and drainage arrangements, including the 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.

12. Details of the materials, colours and textures of all the external finishes to the proposed buildings shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of the visual amenities of the area.

13. Details of all shopfronts and signage on elevations facing onto public roads and public spaces shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

14. No external security shutters shall be erected on any of the commercial premises fronting onto public roads and public spaces, unless authorised by a further grant of planning permission. Details of all internal shutters shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

15. No retail units shall be extended, sub-divided or merged internally without the prior written agreement of the planning authority.

Reason: In the interest of clarity and to provide for the orderly regulation of retail development in accordance with the stated retail policies set out in the current development plan for the area.

16. 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 visual amenities of the area.

17. 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.

18. The construction of the development shall be managed in accordance with a Site Traffic and 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 compound(s) including area(s) 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) Details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels.
- (j) 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.
- (k) Off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil.
- (l) 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 interests of amenities, public health and safety.

19. Site development and building works shall be carried out between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays or public holidays. Deviation from these times shall 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.

20. Prior to commencement of development, the developer shall submit to, and obtain the written agreement of the planning authority, a plan containing details for the management and safe disposal of all waste (and, in particular, recyclable materials) within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials, and for the ongoing operation of these facilities.

Reason: To provide for the appropriate management of waste and, in particular recyclable materials, in the interest of protecting the environment.

21. The management and maintenance of the proposed development, following completion, shall be the responsibility of a legally constituted management company, which shall be established by the developer. A management scheme, providing adequate measures for the future maintenance of the development; including the external fabric of the buildings, internal common areas, landscaping, roads, paths, parking areas, lighting, waste storage facilities and sanitary services, shall be submitted to, and agreed in writing with, the planning authority, before the proposed development is made available for occupation.

Reason: To provide for the future maintenance of this private development in the interest of visual amenity.

22. 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 the 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.

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

Dated this day of 2019.