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**Planning and Development Acts 2000 to 2020**

**Planning Authority: Cork City Council**

**Planning Register Reference Number: T.P. 19/39006**

**Appeal** by Eddie and Katherine Davis of 42 Brookville Estate, Riverstown, Glanmire, County Cork against the decision made on the 8<sup>th</sup> day of July, 2020 by Cork City Council to grant subject to conditions a permission to Tom Moynihan care of HRA Planning of 3 Hartstonge Street, Limerick in accordance with plans and particulars lodged with the said Council.

**Proposed Development:** Construction of two number buildings of seven number and six number stories in height over basement level. The development provides for: (i) ground floor comprising one number café (124 square metres) and three number commercial/retail units (total 276 square metres) with circulation space to access the apartments overhead; (ii) 42 number apartments comprising 12 number one bed; 24 number two bed and 6 number three bed; (iii) two number levels of basement car parking providing 42 number car parking spaces; (iv) enhanced connectivity across the Butlerstown River with the provision of a footbridge; (v) provision of a public plaza and associated landscaping; (vi) ESB substation and bin storage area and (vii) all associated site works at Ballinglanna, Riverstown, Glanmire, County 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.

## **Appropriate Assessment Screening**

The Board considered the Screening Report for Appropriate Assessment, the Natura Impact Statement and all the other relevant submissions and carried out both an appropriate assessment screening exercise and an appropriate assessment in relation to the potential effects of the proposed development on designated European Sites.

The Board agreed with the screening assessment and conclusion carried out in the Inspector's report that the Great Island Channel Special Area of Conservation (Site Code: 001058) and the Cork Harbour Special Protection Area (Site Code: 004030) are the only European Sites in respect of which the proposed development has the potential to have a significant effect.

## **Appropriate Assessment**

The Board considered the Natura Impact Statement and all other relevant submissions and carried out an appropriate assessment of the implications of the proposed development for European Sites, namely, the Great Island Channel Special Area of Conservation (Site Code: 001058), and the Cork Harbour Special PA (site code 004030), in view of the sites' conservation objectives. The Board considered that the information before it was adequate to allow the carrying out of an appropriate assessment.

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 which 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 Sites, having regard to the sites' 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 Sites, in view of the sites' conservation objectives.

## Reasons and Considerations

Having regard to the following:

- the National Planning Framework, Project Ireland 2040,
- the Urban Development and Building Heights Guidelines for Planning Authorities issued by the Department of Housing, Planning and Local Government in December, 2018,
- the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities issued by the Department of Housing, Planning and Local Government in March, 2018,
- the Cork County Development Plan 2014,
- the Cobh Municipal District Local Area Plan 2017, and Objective GM-T-02 in particular, and
- the pattern of existing and permitted development in the area,

it is considered that, subject to compliance with the conditions set out below, the proposed development would be in accordance with the provisions of the National Planning Framework, the Cork County Development Plan 2014 and the Cobh Municipal District Local Area Plan 2017, would be acceptable in terms of height, scale, mass and density, would not seriously injure the visual amenities of the area or the residential amenities of adjoining properties, would represent an appropriate design response to the site's context, would not pose a significant flood risk and would be acceptable in terms of pedestrian, cyclist and traffic safety. The proposed development 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, as amended by the further plans and particulars submitted on the 27<sup>th</sup> day of May, 2020, 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. Details of the materials, colours and textures of all the external finishes to the proposed development shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interest of visual amenity.

3. Prior to the first occupation of each of the commercial units, the developer shall submit to the planning authority for agreement in writing confirmation of the proposed use of the units. This agreed first use of the units shall become the approved use class and planning permission shall be required for any subsequent change of use outside of the agreed use class. In the event of a failure to meet agreement on the use of the units, the matter shall be referred to An Bord Pleanála for determination.

**Reason:** In the interest of orderly development.

4. The hours of operation of the proposed café shall be agreed in writing with the planning authority prior to the first occupation of that unit.

**Reason:** In the interest of the amenities of property in the vicinity.

5. Details of all external shopfronts and signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interest of visual amenity.

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) the 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, and

- (d) details of proposed boundary treatments at the perimeter of the site, including heights, materials and finishes of perimeter walls.

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

**Reason:** In the interests of visual and residential amenity.

- 7. 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.

- 8. 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.

- 9. The developer shall enter into water and/or wastewater connection agreement(s) with Irish Water prior to the commencement of development.

**Reason:** In the interest of public health.

10. The developer shall facilitate the preservation, recording and protection of archaeological materials or features that 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,
  - (b) employ a suitably-qualified archaeologist who shall monitor all site investigations and other excavation works, and
  - (c) provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove.

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 site and to secure the preservation and protection of any remains that may exist within 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. Such lighting shall be provided prior to the making available for occupation of any apartment.

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



12. Prior to commencement of development, proposals for a name and numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority.

**Reason:** In the interest of orderly development.

13. 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 noise management measures and traffic management measures.

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

14. 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. 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.

15. 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.

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

17. 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.

18. 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 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.

19. 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.

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

**Dated this            day of            2020.**