



Planning and Development Acts 2000 to 2020

Planning Authority: Cork City Council

Planning Register Reference Number: 19/38828

Appeal by Tim McCarthy of Dunrovan, Farranlea Park, Model Farm Road, Cork against the decision made on the 27th day of July, 2020 by Cork City Council to grant subject to conditions a permission to Philip O'Connor care of Edge Architecture Limited of Clarke Street, Clonakilty, County Cork in accordance with plans and particulars lodged with the said Council:

Proposed Development: Demolition of the existing Kino Cinema, and the construction of a new ground floor art house consisting of cinema and performing arts space, to facilitate art house movies and small performing arts events, supporting café/bar, basement and associated facilities with a student accommodation residence overhead, which is to be utilised for tourist or visitor accommodation only outside of academic term times, providing 17 number bed spaces, roof garden terrace and all associated student accommodation ancillary spaces, and all associated site works above and below ground at 21 Washington Street including laneway west, of number 23 Washington Street and to the side of Little Hanover Street and Gravel Lane, Cork City.

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 provisions of the Cork City Development Plan 2015-2021, to the scale and nature of the proposed development and to the nature and character of the surrounding environment, it is considered that, subject to compliance with the conditions set out below, the proposed development would be an acceptable form of development at this location and would not seriously injure the amenities of the area. 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 3rd day of July 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. The proposed development shall be amended as follows:
 - (a) The windows to the bathrooms and en-suites on the northern and eastern elevations shall be fitted with obscure glazing.
 - (b) The windows to the Security office, the Laundry Room and the Resource room on the first, second and third floors respectively, on the eastern elevation shall be fitted with obscure glazing.
 - (c) The windows to study bedrooms 1, 2, 6, 7, 11 and 12 respectively on the northern and eastern elevations shall have a minimum cill height of 1.2 metres.
 - (d) A minimum of 18 number bicycle spaces shall be provided within the development.

- (e) Dropped kerbing and tactile paving shall be provided at the north-western corner of the building adjacent to the junction of Little Hanover Street and Gravel Lane.

The revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of the protection of the residential amenities of the adjoining properties and in the interest of traffic safety.

- 3. (a) The proposed development hereby permitted shall only be occupied as student accommodation, in accordance with the definition of student accommodation provided under section 13(d) of the Planning and Development (Housing) and Residential Tenancies Act 2016 and shall not be used for any other purpose without a prior grant of planning permission for change of use.
- (b) Full details of the hours of operation of the proposed performance area and café/bar shall be submitted to and agreed in writing with the planning authority prior to commencement of development. The unit shall not be used for the sale of hot fast food or intoxicating liquor for consumption off the premises.

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

4. The management and maintenance of the proposed development following its completion shall be the responsibility of a legally constituted management company. A management scheme providing adequate measures for the future maintenance of public open spaces, roads and communal areas shall be submitted to, and agreed in writing with, the planning authority prior to occupation of the development.

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

5. The proposed development shall be implemented as follows:
 - (a) The student accommodation and complex shall be operated and managed in accordance with the measures identified in a finalised Student Accommodation Management Plan which shall be submitted to and agreed in writing with the planning authority prior to first occupation of the development.
 - (b) Student Housing Units shall not be amalgamated or combined.

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

6. Access to the proposed roof terraces and amenity use thereof shall be restricted between 2200 hours and 0800 hours.

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

7. 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.

8. Details of proposed signage associated with the performance venue, the café/bar and the student accommodation shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

9. Details of all security shuttering, external shopfronts, lighting and signage shall be as submitted to and agreed in writing with, the planning authority prior to occupation of the development.

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

10. 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 unit.

Reason: In the interests of amenity and public safety.

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 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.

12. Prior to the occupation of the development, a Mobility Management Strategy shall be submitted to and agreed in writing with the planning authority. This shall provide for incentives to encourage the use of public transport, cycling, walking and carpooling by residents/occupants/staff employed in the development and to reduce and regulate the extent of parking. The mobility strategy shall be prepared and implemented by the management company for all units within the development.

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

13. The road network serving the proposed development, including junctions, surfaces, parking / set-down areas, footpaths and kerbs shall be in accordance with the detailed construction standards of the planning authority for such works and the design standards outlined in DMURS. 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.

14. 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, traffic management, noise management measures and off-site disposal of construction/demolition waste.

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

15. 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.

16. 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.

17. 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.

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

Reason: In the interest of public health.

19.
 - (a) The mitigation measures identified in the Flood Risk Assessment Report (3rd July 2020), submitted as part of the further information to the planning authority, shall be implemented in full. Any proposed changes to the measures shall be agreed in writing with the planning authority prior to the commencement of development on the site.
 - (b) Prior to first occupation of any unit on the site, a Flood Emergency Management Plan shall be submitted to and agreed in writing with the planning authority. Such plan shall be subject to regular review by the management company for the development.

Reason: In the interests of public health and safety.

20. The site shall be landscaped in accordance with the detailed comprehensive scheme of landscaping, which accompanied the application submitted, unless otherwise agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of residential and visual amenity.

21. 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, in particular, recyclable materials for each apartment 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 shall be managed in accordance with the agreed plan.

Reason: In the interest of residential amenity, and to ensure the provision of adequate refuse storage.

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 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.

Paul Hyde

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

Dated this day of 2021