



Planning and Development Acts 2000 to 2020

Planning Authority: Cork City Council

Planning Register Reference Number: T.P. 19/38589

Appeal by Irish Georgian Society of City Assembly House, 58 South William Street, Dublin, by An Taisce Corcaigh of Tailors' Hall, Back Lane, Dublin and by John Adams of 4 Rahilly Street, Cobh, County Cork against the decision made on the 13th day of October 2020 by Cork City Council to grant subject to conditions a permission to Tower Development Properties Limited care of McCutcheon Halley of 6 Joyce House, Barrack Square, Ballincollig, County Cork in accordance with plans and particulars lodged with the said Council:

Proposed Development: Redevelopment of the Custom House site at North Custom House Quay and South Custom House Quay, Custom House Street, Cork City to provide a 240-bedroom hotel, 25 number hotel serviced suites, and a range of commercial uses including retail, office, food and beverage, distillery, tourism and leisure. The redevelopment will have a gross floor area of approximately 31,604 square metres and will involve:

(a) construction of a new 34-storey hotel tower (approximately 140 metres high) on the site of the existing Revenue Building (Record of Protected Structure PS818) which will be partially demolished and incorporated into the

hotel structure. The hotel tower will include guest bedrooms and suites, spa, pool, restaurant, bar, outdoor terrace, plant and ancillary uses.

(b) Conservation and repair works including alterations, extensions and changes of use of the existing Custom House Building (Record of Protected Structure PS060 and PS818) to provide reception, bar, restaurant, function areas, plant and ESB substation for the hotel (the extensions will include the construction of a new function room, approximately 14.9 metres high) at the northern end of the Custom House; the partial demolition of the Revenue section to the rear of the Custom House to facilitate the creation of a foundation for the new hotel tower with proposed basement service and ancillary plant, and subsequent reinstatement of the northern and southern façades and elements of the eastern façade of the Revenue section, which will be contained within the new atrium.

(c) Conservation and repair works including alterations, extensions and changes of use of the Bonded Warehouses (Record of Protected Structures PS163) to provide retail, office, food and beverage, distillery, museum, visitor centre and boathouse/workshop, ancillary plant and ESB substation and equipment (the extensions will include raising the roof of the Bonded Warehouses by approximately 1.7 metres; partial demolition and reinstating of historic canopies around the building which will form enclosed conservatories on south wall of Bonded Warehouse; and approximately 11.2 metres high distillery extension to the east).

(d) The construction of a new glazed atrium (approximately 16.5 metres high) linking the Custom House Building and the Bonded Warehouses which will incorporate the retained elevations of the Revenue Building.

(e) the creation of a landscaped public realm around the buildings, with pedestrian and vehicular access and parking at North Custom House Quay and pedestrian and emergency vehicle access at South Custom House Quay; refurbishment of the historic mooring posts and granite setts/cobbles and provision of flood protection to the Bonded Warehouses.

(f) Remedial structural works including grouting, anchoring and pointing to sections of the existing southern and eastern quay walls.

(g) Alterations to the footpath and street furniture along the Custom House Street frontage of the site; and

(h) all ancillary site development works and services including outline proposals for signage for the hotel and commercial uses, gas meter/skid and ancillary plant and equipment,

all at North Custom House Quay and South Custom House Quay, Custom House Street, Cork City. The proposed development consists of the carrying out of works to Protected Structures PS060, PS818 and PS163. Further public notices were received by the planning authority on the 2nd day of April 2020.

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

The Board had regard to:

- (a) the National Planning Framework issued by the Department of Housing, Planning and Local Government in February 2018, which seeks a more balanced and concentrated growth and targets a significant proportion of future urban development on infill/brownfield development sites within the built footprint of existing urban areas,
- (b) the objectives of the Cork Metropolitan Area Strategic Plan as set out in the Regional Spatial and Economic Strategy for the Southern Region to strengthen the consolidation and regeneration of Cork City Centre and to strengthen the role of the Cork Metropolitan Area as an international location of scale, a complement to Dublin and a primary driver of economic and population growth in the Southern Region,
- (c) the 'Urban Development and Building Heights Guidelines for Planning Authorities' issued by the Department of Housing, Local Government and Heritage in December 2018, and Specific Planning Policy Requirement 1 (SPPR 1) to support increased building height in locations with good public transport accessibility, particularly town/city cores to secure the objectives of the National Planning Framework and Regional Spatial and Economic Strategies,
- (d) the 'Architectural Heritage Protection Guidelines for Planning Authorities' issued by the Department of Arts, Heritage and the Gaeltacht in October 2011,
- (e) the site's location in Cork City Centre on lands with zoning objective 'ZO 02 - City Centre Commercial Core Area (CCA)' which seeks 'to support the retention and expansion of a wide range of commercial, cultural, leisure and residential uses in the commercial core area (apart

from comparison retail uses)' and zoning objective 'ZO 17 Quayside Amenity Area' which seeks 'to protect and preserve quayside, natural heritage and river amenities through the provision of a public quayside area including walkway' as set out in the Cork City Development Plan 2015-2021,

- (f) the site's location within the City Harbour Interchange Area which is one of two areas identified in the City Development Plan which could have transformational impacts on the City Centre,
- (g) the character and pattern of existing and permitted development in the area,
- (h) the layout, form, mass, height, materials, finishes, design detail, and the public realm provision and enhancements,
- (i) the updated environmental impact assessment report dated February 2020 submitted,
- (j) the Natura impact statement submitted,
- (k) the submissions and observations received, and
- (l) the report of the Inspector.

Appropriate Assessment Screening

The Board considered screening for Appropriate Assessment and 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 and adopted the screening assessment carried out and conclusions reached in the Inspector's report that the Cork Harbour Special Protection Area (Site Code: 004030) and Great Island Channel Special Area of Conservation (Site Code: 001058) 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 associated documentation submitted with the application, the mitigation measures contained therein, the submissions and observations on file, and the Inspector's assessment. The Board completed an appropriate assessment of the implications of the proposed development for the aforementioned European sites 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:

- (a) the likely direct and indirect impacts arising from the proposed development both individually or in combination with other plans or projects,

- (b) the mitigation measures which are included as part of the current proposal, and
- (c) 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, either individually or in combination with other plans or projects, would not adversely affect the integrity of the European sites, having regard to the sites' Conservation Objectives.

Environmental Impact Assessment

The Board completed an environmental impact assessment of the proposed development taking into account:

- (a) the nature, scale, location and extent of the proposed development,
- (b) the updated environmental impact assessment report dated February 2020 and associated documentation submitted in support of the planning application,
- (c) the submissions from the planning authority, prescribed bodies, the appellants and the observers, and
- (d) the Inspector's report.

The Board considered that the updated environmental impact assessment report dated February 2020, supported by the documentation submitted by the applicant, adequately considers alternatives to the proposed development and 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 updated environmental impact assessment report dated February 2020 and associated documentation submitted by the developer and submissions made in the course of the planning application.

Reasoned Conclusion on the Significant Effects

The Board considered and agreed with the Inspector's reasoned conclusions, that the main significant direct and indirect effects of the proposed development on the environment and would be mitigated, as follows:

- (a) Population and Human Health: Positive impacts through the re-development of a brownfield and under-utilised city centre site for employment, cultural and amenity spaces that will improve the townscape and visual setting in addition to job creation and spin off benefits. Potential negative impacts to human beings arising from noise, dust, traffic, excavation and demolition impacts during the construction phase will be mitigated with the preparation of a Construction Management Plan which will include traffic management measures.
- (b) Water: During the construction phase, there is potential for negative impacts on the water quality of the River Lee arising from the release of hydrocarbons, soil and sediment, and excess water from dewatering activities which may contain silt/sediment. Detailed mitigation measures

are set out to prevent the contamination of the adjacent watercourse from fuel or other hazardous materials. To mitigate against the risk of flooding, measures such as minimum finished floor levels in new build and use of demountable defences are proposed.

- (c) Cultural Heritage: Adverse impacts arising from the demolition of a section of the Revenue Building which is a protected structure to allow for the construction of the tower and the modern design interventions to the Custom House and the Bonded Warehouse. There will be positive impacts on the cultural heritage of this part of Cork City arising from the restoration, extension and reuse of currently vacant or under-utilised historic buildings, the opening up of the site to the public and the extensive provision of public realm.
- (d) Landscape (Townscape and Visual Impact): The proposed development, entailing modern design interventions and a tall building, will have a significant impact on the urban and visual character of the area. The proposed tall building will introduce a major new element visible in key views. It will be prominent and will attain primacy in an emerging cluster of high buildings at this transitional location between the city centre and the docklands. The juxtaposition of the new and the old would provide for visual interest which would add to its visually attractiveness which would be supplemented by the new public realm.

Notwithstanding the conclusions reached in respect of the negative impact of the demolition of part of the Revenue Building, which is a protected structure, it is considered that the environmental effects would not justify a refusal of planning permission having regard to the overall benefits of the proposed development.

The Board completed an environmental impact assessment in relation to the proposed development and concluded that, subject to the implementation of

the mitigation measures set out in the updated environmental impact assessment report dated February 2020, and subject to compliance with the conditions set out below, the effects of the proposed development on the environment, by itself and in combination with other plans and projects 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.

Conclusions on Proper Planning and Sustainable Development

It is considered that, subject to compliance with the conditions set out below, the proposed development would:

- (a) secure the re-development of strategic, under-utilised urban land in a prominent city centre location and would assist in the re-development and rejuvenation of this part of Cork City Centre, in accordance with the policies and objectives of the current Cork City Development Plan,
- (b) be consistent with national, regional and local policy measures and guidance which seeks to secure more compact and higher density development in city centre areas,
- (c) enhance the skyline of the City Harbour Interchange Area of the city centre,
- (d) make a positive contribution to the urban character of the area,
- (e) not be contrary with Objective 10.6 as set out in the Cork City Development Plan which seeks to protect and enhance views and prospects of special amenity value or special interest, and

- (f) would not seriously injure the amenities of development in the area and the character and appearance of Protected Structures.

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 26th day of February 2020 and the 20th day of August 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. All mitigation and monitoring commitments identified in the updated Environmental Impact Assessment Report dated February 2020 (and summarised in Chapter 21) and in Section 6.3 'Mitigation Measures' of the Natura impact statement shall be implemented in full as part of the proposed development, except as may otherwise be required in order to comply with the following conditions.

Reason: In the interest of clarity and protection of the environment during the construction and operational phases of the proposed development.

3. The following details shall be submitted to the planning authority for written agreement prior to commencement of development:
 - (a) installation and management of the maritime themed visitor centre, and
 - (b) operation of the pontoon on Custom House Quay.

Reason: In the interest of clarity and orderly development of the maritime related uses at the site.

4.
 - (a) A maximum of 20 number car parking spaces shall be provided within the site. A revised site layout plan with the location and layout of these spaces delineated thereon and the treatment of the remainder of the space originally allocated for car parking which shall be incorporated into the public realm to be submitted to, and agreed in writing, with the planning authority prior to commencement of development.
 - (b) Five number car parking spaces shall be for persons with impaired mobility.
 - (c) All of the parking spaces shall be provided with functional electric vehicle charging points.

Reason: In the interest of sustainable transportation.

5. A phasing scheme for 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 orderly development.

6. All materials, colours and textures of the external finishes to the proposed buildings shall be in accordance with the Architectural Design Statement received with the planning application, as revised by the Architectural Design Statement received by the planning authority on the 26th day of February 2020. Any deviation from these details shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

7. All materials, colours and textures of the external finishes to the proposed public realm shall be in accordance with the revised Stage 1 Landscape Architectural Report, received by the planning authority on the 26th day of February 2020, as amended by the plans and details submitted on the 20th day of August 2020. Any deviation from these details 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 all external signage within 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 the visual amenities of the area.

9. 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 amenity of the area.

10. Prior to commencement of development, the developer shall provide for the following:
 - (a) The appointment of a conservation expert who shall manage, monitor and implement works on the site and ensure adequate protection of the historic fabric during those works.
 - (b) All repair/restoration works shall be carried out in accordance with best conservation practice as detailed in the application and the “Architectural Heritage Protection Guidelines for Planning Authorities” (Department of Arts, Heritage and the Gaeltacht, 2011). The repair/restoration works shall retain the maximum amount possible of surviving historic fabric in-situ including structural elements, plasterwork and joinery and shall be designed to cause minimum interference to the building structure and/or fabric.

Reason: To ensure that the integrity of the historic structures is maintained and that the structures are protected from unnecessary damage or loss of fabric.

11. The complex of buildings and associated historic features on the site shall be recorded and documented to a detailed form and level to include a written account and visual record to include measured plans, sections, elevations (scale 1:100), fixtures of significance, construction materials and any earlier interventions. The plans, sections, elevations and architectural details are to be cross referenced to a photographic record and locations of detailed features. Copies of all recording material, condition reports and demolition processes relating to the buildings shall be lodged with the Irish Architectural Archives on completion of the works.

Reason: In the interests of conservation and the proper planning and sustainable development of the area.

12. The developer shall facilitate the archaeological appraisal of the site and shall provide for the preservation, recording and protection of archaeological materials or features which 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, and
 - (b) employ a suitably qualified archaeologist prior to the commencement of development. The archaeologist shall assess the site and monitor all site development works.

The assessment shall address the following issues:

- (i) the nature and location of any archaeological material on the site, and
- (ii) the impact of the proposed development on such archaeological material.

A report, containing the results of the assessment, shall be submitted to the planning authority and, arising from this assessment, the developer shall agree in writing with the planning authority details regarding any further archaeological requirements (including, if necessary, archaeological excavation) prior to commencement of construction works. 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 area and to secure the preservation (in-situ or by record) and protection of any archaeological remains that may exist within the site.

13. (a) The uncontrolled pedestrian crossing at the southern site entrance shall comply with the requirements of the Design Manual for Urban Roads and Streets.
- (b) Stage 3 / 4 Road Safety Audit to be undertaken and the findings incorporated into the development.

Reason: In the interests of traffic and pedestrian safety.

14. An updated Mobility Management Strategy Plan shall be submitted to, and agreed in writing with, the planning authority. The following measures shall be undertaken:
 - (a) The Strategy shall set a target for modal travel split.
 - (b) A Mobility Manager shall be appointed to oversee and co-ordinate the implementation of the plan.

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

15. 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.

16. 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.

17. The requirements of the Irish Aviation Authority in terms of appropriate marking and lighting scheme shall be incorporated into the development. Details of the said requirements shall be submitted to the planning authority prior to commencement of development.

Reason: In the interest of aircraft safety.

18. 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.

19. A detailed construction traffic management plan shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The plan shall include details of arrangements for routes for construction traffic, parking for construction traffic, parking machinery and the location for storage of deliveries to the site.

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

20. A plan containing details for the management and safe disposal of all waste (and, in particular, recyclable materials) within the proposed 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, shall be prepared by the local authority prior to commencement of development and shall be placed on the file and retained as part of the public record.

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

21. 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.

22. The developer shall pay to the planning authority a financial contribution as a special contribution under section 48(2) (c) of the Planning and Development Act 2000 in respect of:
- (a) upgrade of the northern junction of the N27/Michael Collins Bridge/Anderson Quay to incorporate traffic signalling equipment;
 - (b) reconfiguration of the Split Cycle Offset Optimisation Technique (SCOOT) network;
 - (c) road markings and signage requirements on the N27, and
 - (d) replacement and upgrade of street lighting along the site frontage onto the N27.

The amount of the contribution 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 for determination. The contribution shall be paid prior to commencement of development or in such phase payments as the planning authority may facilitate and shall be updated at the time of payment in accordance with changes in the Wholesale Price Index – Building and Construction (Capital Goods) published by the Central Statistics Office.

Reason: It is considered reasonable that the developer shall contribute towards the specific exceptional costs which are incurred by the planning authority which are not covered in the Development Contribution Scheme and which will benefit the proposed development.

23. The developer shall pay to the planning authority a financial contribution in respect of the Cork Suburban Rail Project in accordance with the terms of the Supplementary Development Contribution Scheme made by the planning authority under section 49 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 Supplementary Development Contribution Scheme made under section 49 of the Act be applied to the permission.

Dave Walsh

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

Dated this day of 2021