

An  
Bord  
Pleanála

Board Order  
ABP-308670-20

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**Planning and Development Acts 2000 to 2021**

**Planning Authority: Cork City Council**

**Planning Register Reference Number: 20/39502**

**Appeal by JAW Asset Holdings Limited care of HW Planning of 5 Joyce House, Barrack Square, Ballincollig, County Cork against the decision made on the 19<sup>th</sup> day of October, 2020 by Cork City Council to refuse permission for the proposed development.**

**Proposed Development:** Construction of a three-storey primary care centre with five number ground floor retail units and café. The proposed primary care centre will comprise reception/waiting areas and associated offices, consultation rooms and staff welfare areas. The proposed development will involve the demolition of an existing dwelling fronting Saint Ann's Road and provision of a single storey café at this location. The proposed development makes provision for the upgrade of the junction of the R617 and Saint Ann's Road to provide for a roundabout and access to the proposed primary care centre and includes revisions to an existing surface car park to facilitate the proposed access to the scheme, all at Saint Ann's Road, Monacnappa, Blarney, 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.**

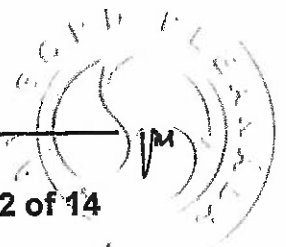
## Matters Considered

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

In coming to its decision the Board had regard to the following:

- (a) the location of the site in an established urban area, with the site zoned for regeneration,
- (b) the policies and objectives of the Cork County Development Plan 2014,
- (c) the National Planning Framework, which identifies the importance of compact growth,



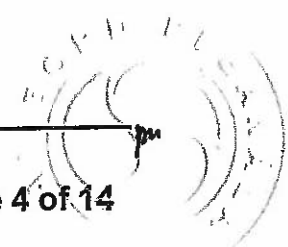
- (d) the Urban Development and Building Heights Guidelines for Planning Authorities, prepared by the Department of Housing, Planning and Local Government in December 2018, and particularly Specific Planning Policy Requirement 3,
- (e) the Design Manual for Urban Roads and Streets (DMURS) issued by the Department of Transport, Tourism and Sport and the Department of the Environment, Community and Local Government in March 2013,
- (f) The Planning System and Flood Risk Management (including the associated Technical Appendices), 2009,
- (g) the Architectural Heritage Protection – Guidelines for Planning Authorities (2011),
- (h) the nature, scale and design of the proposed development, and the existing availability in the area of a wide range of social, transport and water services infrastructure,
- (i) the pattern of existing and permitted development in the area,
- (j) the submissions and observations received,
- (k) the decision of the planning authority, and
- (l) the report and recommendation of the Inspector including the examination, analysis and evaluation undertaken in relation to Appropriate Assessment and Environmental Impact Assessment.

### **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 within a zoned and serviced urban area, the Inspector's report for this case and the Inspectors report on the adjoining site, and the submissions on file. In completing the screening exercise, the Board had regard to the conclusions reached by the Inspector on the adjoining site (appeal reference number ABP-309152-21) which is closer to the watercourse which drains to the River Martin 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 conservation objectives of such sites, and that a Stage 2 Appropriate Assessment is not, therefore, required.

### **Conclusions on Proper Planning and Sustainable Development**

The Board considered that, subject to compliance with the conditions set out below, the proposed development would constitute an acceptable quantum, mix and scale of development in this accessible and central urban village location, would not seriously injure the residential or visual amenities of the area, would enhance the amenity offering for tourists through the provision of additional retail units, would not seriously injure the character of the nearby Architectural Conservation Area, would be acceptable in terms of design, height, mix and quantum of development, would be acceptable in terms of pedestrian and cyclist safety and would provide an acceptable form of residential amenity for future occupants. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.



In deciding not to accept the Inspectors recommended first reason for refusal the Board noted the site's location adjacent to the Blarney Architectural Conservation Area which encompasses the town centre and Blarney Castle and Estate. The Board also noted the site's zoning objective for regeneration under development objective BL RA 01 of the Blarney Macroom Municipal District Local Area Plan 2017 and its identification as a sensitive strategic site wherein any future development will need to protect and enhance the existing character of the area and views of the castle and be of a high-quality architectural design.

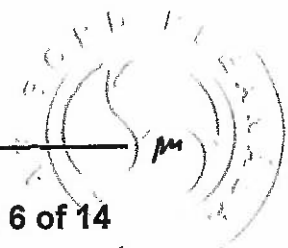
The Board was satisfied that the proposed development, having regard to its design, layout, scale and massing would be visually acceptable, and would not seriously injure or detract from the character and setting of the Architectural Conservation Area or the wider heritage value of the area. Furthermore, the Board was satisfied that the development does not compromise the landscape heritage of the area as set out in Objective GO-06 of the plan. The proposed development, therefore, would not seriously injure the amenities of the area

In deciding not to accept the inspectors recommendation to refuse on the basis that - having regard to the objectives of the development plan in respect of regeneration site BLRA01 and Special Policy Area BL-X-O1 as designated in the Blarney Macroom Municipal District Local Area Plan of which the appeal site forms part, that the proposed development would constitute piecemeal development which could potentially prejudice the appropriate development of the remainder of the BL-X-01 lands, - the Board concluded that when assessed in tandem with the proposed development as submitted under appeal reference number ABP-309152-21 on the adjoining site, the proposed development represented an integrated and coordinated design approach to achieving the objectives as set out above in the Blarney Macroom Municipal District Local Area Plan and would, therefore, be in accordance with the proper planning and sustainable development of the area.

In deciding not to accept the Inspectors' recommendation to refuse on the basis that the proposed development would seriously detract from the residential amenity of existing occupants of the dwelling forming part of the semi-detached pair with that proposed for demolition, the Board was satisfied having regard to the scale, disposition and layout of the proposed development that it respected the scale of the adjoining property and would not seriously injure its residential amenity.

In deciding not to accept the inspectors recommendation to refuse on the basis of potential impacts on Natura Sites, Cork Harbour Special Protection Area (Site Code:004030) or Great Island Channel Special Area of Conservation (Site Code: 001058), the Board concluded, as set out above in the Appropriate Assessment Screening that the proposed development would not, by itself or in combination with other development in the vicinity, be likely to have a significant effect on any European Site in view of the conservation objectives of such sites, and that a Stage 2 Appropriate Assessment is not, therefore, required and accordingly, the Board was not precluded from granting permission in this instance.

DECISION QUASHED



## 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. Details of the materials, colours and textures of all the external finishes to the proposed buildings shall be as submitted with the application unless otherwise agreed in writing with the planning authority prior to commencement of development. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

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

3. The car parking facilities hereby permitted shall be reserved solely to serve the proposed development. The spaces shall not be utilised for any other purpose, including for use in association with any other uses of the development hereby permitted, unless the subject of a separate grant of planning permission. Car parking spaces shall not be sold, rented or otherwise sub-let or leased to other parties. Car parking serving the entire development site shall be managed based on a detailed car parking management plan. Prior to commencement of development, a detailed car parking management plan shall be submitted to and agreed in writing with the planning authority.

**Reason:** To ensure that adequate parking facilities are permanently available to serve the proposed residential units.

4. A minimum of 10% of all car parking spaces shall be provided with functioning electric vehicle charging stations or points, and ducting shall be provided for all remaining car parking spaces facilitating the installation of electric vehicle charging points or stations at a later date. Where proposals relating to the installation of electric vehicle ducting and charging stations or points has not been submitted with the application, in accordance with the above noted requirements, such proposals shall be submitted to and agreed in writing with the planning authority prior to the occupation of the development.

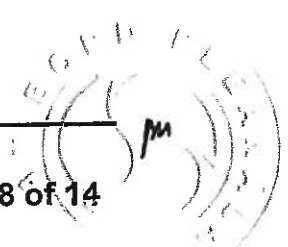
**Reason:** To provide for and/or future proof the development such as would facilitate the use of electric vehicles.

5. 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.





6. Public lighting shall be provided in accordance with a scheme, which shall include lighting along pedestrian routes through open spaces 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.

7. Water supply and the arrangements for the disposal of foul water, shall comply with the requirements of the planning authority for such works and services.

**Reason:** In the interest of public health and to ensure a satisfactory standard of development.

8. Prior to commencement of development, the developer shall enter into water and/or wastewater connection agreement(s) with Irish Water.

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

9. 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 interests of public health and surface water management.

10. 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.

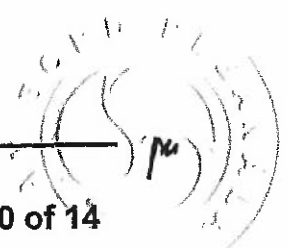
11. The developer shall facilitate the archaeological appraisal of the site and shall provide for the preservation, recording and protection of archaeological materials or features which may exist within the site. In this regard, the developer shall:

- (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 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.

12. The construction of the development shall be managed in accordance with a Final Construction and Environmental Management Plan, which shall be submitted to, and agreed in writing with the planning authority prior to commencement of development. This plan shall provide inter alia: details of proposals as relates to soil importation and exportation to and from the site; details and location of proposed construction compounds, details of intended construction practice for the development, including noise and vibration management measures, details of arrangements for routes for construction traffic, parking during the construction phase, and off-site disposal of construction/demolition waste and/or by-products.

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

13. The site development and construction works shall be carried out in such a manner as to ensure that the adjoining roads are kept clear of debris, soil and other material, and cleaning works shall be carried on the adjoining public roads by the developer and at the developer's expense on a daily basis.

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

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. 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.

**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 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.

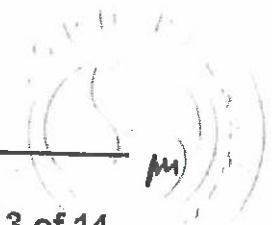
16. All service cables associated with the proposed development such as electrical, telecommunications and communal television shall be located underground. Any relocation of utility infrastructure shall be agreed with the relevant utility provider. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development.

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

17. 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 reinstatement of public roads which may be damaged by the transport of materials to the site, 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.

DECISION QUASHED



18. 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 28<sup>th</sup> day of DECEMBER 2021.