

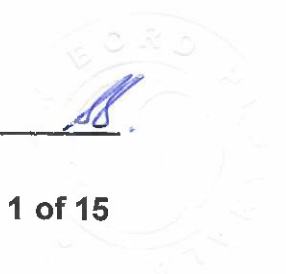
Planning and Development Acts 2000 to 2021

Planning Authority: Cork County Council

Planning Register Reference Number: 20/04390

Appeal by Simon and Sarah Kelleher and Others of 3 Lower Courtstown, Little Island, County Cork against the decision made on the 20th day of April 2021 by Cork County Council to grant subject to conditions a permission to Kearney's of Cork care of Brian O'Kennedy and Associates of Shannon House, Church Road, Douglas, County Cork in accordance with plans and particulars lodged with the said Council:

Proposed Development: Alterations to existing warehouse premises, its site and its out-buildings. Change of use of premises to bus depot, extension to rear elevation and provision of roller shutters to front elevation. Other works include demolition of existing out-buildings and construction of new two-storey office building. Ancillary site works to include the following: closure of existing primary vehicular entrance and widening of existing secondary entrance for use as primary entrance, new site boundary walls and fencing, additional hard landscaping and site level alterations for bus parking, provision of bus-wash and fuel pump station, storm water attenuation, and off-street parking, all at Courtstown, Little Island, County Cork. Further public notices were received by the planning authority on the 24th day of February 2021.



Decision

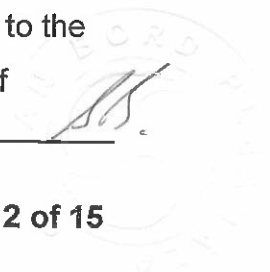
GRANT permission for the above proposed development in accordance with the said plans and particulars based on the reasons and considerations under and subject to the condition set out below.

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 Planning System and Flood Risk Management Guidelines for Planning Authorities, the Cork County Development Plan 2014, and the Cobh Municipal District Local Area Plan 2017, it is considered that, subject to compliance with the conditions set out below, the proposal for a change of use of the existing warehouse on the site to a bus depot and associated developments in the south-western half of this site to facilitate this use would be in accordance with relevant Development Plan Objectives for the zoning of the site and non-conforming uses pursued thereon. The proposed development would be compatible with the visual and residential amenities of the area. Traffic generation would, subject to improvements to the local road which serves the site, be capable of being accommodated thereon, and revised access arrangements for the site and on-site parking and manoeuvring facilities would be satisfactory. Subject to improvements to the existing surface water and waste-water facilities on the site, any risk of



malfunction or pollution of the adjacent foreshore would be mitigated. These improvements would also resolve any Appropriate Assessment issues. While the southern corner of the site is the subject of an identified coastal flooding risk, mitigation measures incorporated within the proposal would allay this risk. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

Appropriate Assessment Screening

In completing the screening for Appropriate Assessment, the Board accepted and adopted the screening assessment and conclusion carried out in the Inspector's Report in respect of the identification of the European sites that could potentially be affected, and the identification and assessment of the potential likely significant effects of the proposed development, either individually or in combination with other plans or projects, on these European sites in view of the sites' conservation objectives. The Board was satisfied that the proposed development, either individually or in combination with other plans or projects, would not be likely to have a significant effect on any other European sites, in view of the sites' conservation objectives, other than the Great Island Channel Special Area of Conservation (Site Code: 001058) and the Cork Harbour Special Area of Protection (Site Code: 004030) for which Appropriate Assessment is required.

Appropriate Assessment

The Board considered the Natura impact statement submitted with the application and all other relevant submissions and carried out an Appropriate Assessment of the implications of the proposed development for Great Island Channel Special Area of Conservation (Site Code: 001058) and the Cork Harbour Special Area of Protection (Site Code: 004030) in view of the sites'

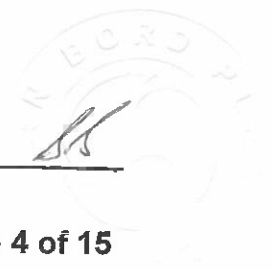
conservation objectives. The Board considered that the information before it was adequate to allow the carrying out of an Appropriate Assessment.

In completing the assessment, the Board considered, in particular,

- (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 the overall conclusion, the Board was satisfied that the proposed development would not adversely affect the integrity of the European sites in view of the sites' conservation objectives and there is no reasonable scientific doubt as to the absence of such effects



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 8th day of February 2021 and by the further particulars received by An Bord Pleanála on the 14th day of June 2021, 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 mitigation measures contained in the Natura Impact Statement which was submitted on the 8th day of February 2021 shall be implemented in full.

Reason: In the interest of clarity and the proper planning and sustainable development of the area and to ensure the protection of the European sites.

3. The change of use to a bus depot shall only extend over that portion of the site which lies to the south-west of the landscaped mound that dissects the overall site.

Reason: For the avoidance of doubt and in order to comply with Objective LI-O-01 of the Cobh Municipal District Local Area Plan 2017.

4. Prior to commencement of development, the landscaping scheme shown on Drawing Number 19/6005/PL-13, which was submitted to the planning authority on the 8th day of February 2021, shall be resubmitted to the planning authority with the following amendments:
- (a) specify a wall and fence instead of the proposed palisade fencing denoted as Item 8 in the southern corner of the site,
 - (b) specify a row of tree planting on the north-western side of the proposed pedestrian/cyclist corridor where it abuts the hardstanding, and
 - (c) specify a schedule listing tree species and numbers to be planted.

The landscaping scheme shall be agreed in writing with the planning authority and, thereafter, it shall be carried out within the first planting season following substantial completion of external construction works.

All planting shall be adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

Reason: In the interest of visual amenity and in order to mitigate the flood risk attendant upon the southern corner of the site.

5. (a) The pedestrian/cyclist corridor shown on Drawing Number 19/6005/PL-13, which was submitted to the planning authority on the 8th day of February 2021, shall be reserved for the future provision of a pedestrian/cyclist route.
- (b) The bus depot shall be served by a minimum of six number covered bicycle stands.

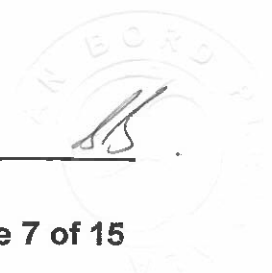
Reason: In order to promote sustainable modes of transport and public health and well-being.

6. A minimum of 10% of the proposed car parking spaces shall be provided with electrical connection points, to allow for functional electric vehicle charging. The remaining car parking spaces car park shall be fitted with ducting for electric connection points to allow for future fitout of charging points. Details of how it is proposed to comply 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 sustainable transport.

7. Water supply and 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.



8. 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.

9. Prior to commencement of development, a comprehensive scheme for the widening of the L-2985 in front of the site and the provision within it of a public footpath and streetlighting shall be submitted to, and agreed in writing with, the planning authority. This scheme shall be the subject of a Stage 1/2 Road Safety Audit, the recommendations of which shall be incorporated within it. It shall also be accompanied by a timetable for implementation, which shall specify when Stage 3 and 4 Road Safety Audits would take place. All works comprised in the agreed scheme shall be undertaken by the developer and its own expense.

Reason: In the interest of road safety.

10. Prior to commencement of development, a Road Safety Audit of the 70-metre section of the existing L-2985 to the north of the site frontage shall be undertaken by the developer and shall be submitted to the planning authority. Any recommendations arising on how to improve the safety of this section of the L-2985, within its existing footprint, shall be agreed in writing with the planning authority, along with a timetable for their implementation at the developer's expense.

Reason: In the interest of road safety.

11. All the measures set out in the Construction and Environmental Management Plan, submitted to the planning authority on the 8th day of February 2021, for the construction phase of the development shall be fully undertaken throughout this phase. Any departures from these measures shall be agreed beforehand in writing with the planning authority.

Reason: In order to safeguard amenity and the environment.

12. Prior to commencement of use of the bus depot, all the measures set out in the Construction and Environmental Management Plan for the operational phase of the development, all the flood resistance and flood resilience measures set out in the Specific Site Flood Risk Assessment, and all the recommendations set out in the Report on Existing Wastewater Disposal System shall be fully implemented. Any departures from these measures and recommendations shall be agreed beforehand in writing with the planning authority.

Reason: In order to safeguard public health and mitigate flood risk.

13. 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.

14. 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 amenities of property in the vicinity.

15. 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:
- (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.
- (m) 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 interest of amenities, public health and safety.

16. (a) The operating times of the development shall be 07:00 to 18:00 Monday to Friday and 07:00 to 13:00 on Saturday. Within these hours, bus maintenance activities shall not begin before 08:00. No operations (including maintenance of vehicles) shall take place outside of these hours except for the occasional parking of buses returning from long distance trips. Prior to commencement of operations on site, the applicant shall submit to the planning authority details of the numbers of vehicles involved in any out of hours parking, the frequency of such parking and the operating hours of such parking. As part of this submission the applicant will need to demonstrate that all possible measures are taken to minimise disruption to the

neighbouring properties. These details shall be agreed in writing with the planning authority prior to commencement of the operation of the development and thereafter the development shall operate in accordance with any agreed details.

- (b) The site entrance gates shall operate in conjunction with bus driver dial-up technology.

Reason: In order to safeguard the residential amenities of the area.

17. Noise levels emanating from the proposed development when measured at Noise Sensitive Locations shall not exceed:
- (i) 55dBA (30 minute LAR) between 0700 and 1900 hours
 - (ii) 50dBA (30 minute LAR) between 1900 and 2300 hours
 - (iii) 45dBA (15 minute Leq) between 2300 and 0700 hours

All sound measurements shall be carried out in accordance with ISO Recommendations R 1996 – “Acoustics-Description and Measurement of Environmental Noise”.

Noise Sensitive Locations: Any dwelling house, hotel or hostel, health building, educational establishment, places of worship or entertainment, or any other facility or area of high amenity which for its proper enjoyment requires the absence of noise at nuisance levels.

Reason: In the interest of protecting amenities.

18. The extension to the former warehouse shall be clad in green sheeting to match that which clads this former warehouse.

Reason: In the interest of visual amenity.

19. Prior to commencement of use of the bus depot, the revised access arrangements for the site shown on Drawing Number 19/6005/PL-10 Revision A received by the planning authority on the 8th day of February, 2021 shall be fully implemented.

Reason: In the interest of ease of access/egress and residential amenity.

20. The bus wash facility shall only operate in conjunction with a self-contained water reclamation system.

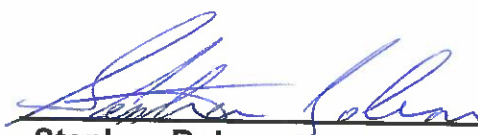
Reason: In order to avoid pollution.

21. Prior to commencement of use of the bus depot, a maintenance contract for the on-site wastewater treatment plant shall be entered into and paid in advance for a minimum period of three years. Thereafter, it shall be kept in place at all times. A signed and dated copy of the contract shall be submitted to, and agreed in writing with, the planning authority.

Reason: In the interest of public health.

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.

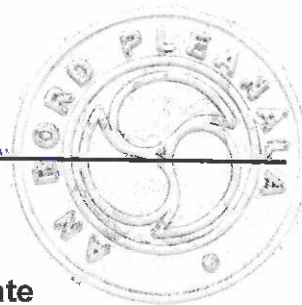


Stephen Bohan

Member of An Bord Pleanála

duly authorised to authenticate

the seal of the Board.



Dated this 2nd day of February 2022