



An
Bord
Pleanála

Board Order
ABP-313328-22

Planning and Development Acts 2000 to 2022

Planning Authority: Cork City Council

Planning Register Reference Number: 21/40068

Appeal by Patrick Crowley of 2 Altus, Sundays Well Road, Cork City against the decision made on the 21st day of March, 2022 by Cork City Council to grant subject to conditions a permission to University College Cork and Tyndall National Institute care of Scott Tallon Walker of 72 South Mall, Cork in accordance with plans and particulars lodged with the said Council:

Proposed Development: As revised by further public notices received by the planning authority on the 13th day of January, 2022, the proposed development now consists of construction of a new purpose-built research facility comprising 16,750 square metres of accommodation rising from four storeys at the east to six storeys at the west. The main accommodation comprises a mix of research laboratories, office accommodation, start-up incubation and amenity spaces. The main entrance level provided for public engagement with a café, exhibition space, conference/seminar areas and a demonstration laboratory. A basement will house the main Mechanical and Electrical services for the building which feed the spaces above through four service cores rising through the buildings. Showers, drying rooms and locker spaces for cyclists are also provided at this level with access on the north

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elevation. Construction of a 124 square metres single storey secure cycle parking structure of 108 bikes is provided to the west of the Cooperage. A new carpark to the west of the new building to replace the 154 existing parking spaces on site. All ancillary development including site wide landscaping and lighting. Following the completion of the Heritage Significance Report, measured building survey and structural survey of the former bottling plant, it is proposed that the entire noteworthy southern elevation composition of the glazed yellow brick, chimney, loading bay canopies and wall behind them are retained, refurbished and integrated into the new design for use as part of the Tyndall facility. The equipment, processes and operations in the new laboratory building will be subject to a Trade Effluent Licence and biannual testing on emissions to atmosphere for several parameters to ensure that the stated limits are not exceeded. The development will take place within the curtilage of two protected structures identified on the Record of Protected Structures of the Cork City Development Plan 2015-2021, Alderman Reilly's Bridge (PS814) and Distillery House and Chimney (PS813), at University College Cork, Distillery Fields, North Mall, 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.

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Reasons and Considerations

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

National planning, related policy and guidance, including:

- Project Ireland 2040 National Planning Framework,
- the National Development Plan 2018-2027, and
- the National policy including the Climate Action Plan 2023.

Regional and local level policy, including:

- The Regional Spatial Economic Strategy for the Southern Region 2020, and
- the policies of the planning authority as set out in the Cork City Development Plan 2022-2028.

other matters, including:

- the nature, scale and design of the proposed development as set out in the planning application and the pattern of development in the vicinity,
- the submissions made to An Bord Pleanála in connection with the planning application and the submissions following request under Section 137 of the Planning and Development Act 2000, as amended,

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- the reports of the Planning Inspector, including the examination, analysis and evaluation undertaken in relation to Appropriate Assessment and Environmental Impact Assessment,
- the proposed development performed well against the criteria of Assessing the Impacts of Tall Buildings under the development plan,
- the proposed development's compliance with criteria for tall buildings: visual impact, functional impact, environmental impact and impacts on microclimate, cumulative impacts with other tall buildings, public access, application process, development guidance (Sections 11.53 to 11.60 of the development plan).

Having regard to the nature, location and context of the proposed site and surrounding areas and of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development is in accordance with the proper planning and sustainable development of the area.

In deciding not to accept the Inspector's recommendation to refuse permission, the Board noted, that the Inspector considered that the proposed development, including its height would be acceptable and would represent a sustainable use of the subject lands (para. 8.5.10 of Inspector's report dated 06th January, 2022 refers). The Board shared this opinion of the Inspector. The Inspector recommended refusal solely on the basis that, in her interpretation, the proposed building height would not be consistent with the relevant provisions of the current development plan policy, by reference to height. However, subsequent to a Section 137 exercise, the Board considered the totality of the documentation on file, including the submissions of the planning authority, the applicant and the appellant, on the matter of the height

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policy of the current development plan. The Board determined that Section 11.51 of the development plan provides inherent flexibility for the consideration of tall buildings, allowing for consideration of the appropriateness of this proposed development having regard to its specific context, to its detailed design and the overall site context which includes several buildings of five or six storeys. In this regard, the Board shared the view of the planning authority that the current development plan provides the mechanisms for the assessment and consideration of a tall building on the proposed development site, under paragraph 11.51 and the other relevant provisions set out therein and that the proposed development would not be inconsistent with the totality of these relevant development plan provisions. The Board also agreed with the Inspector that no issue of potential material contravention of the development plan arises.

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 10th day of December, 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.

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2. The mitigation measures and monitoring commitments identified in the Environmental Impact Assessment Report shall be implemented in full.

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

3. The mitigation measures contained in the Natura Impact Statement submitted with the planning application 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 European sites in the vicinity.

4. No fans, louvres, ducts or other external plant other than those shown on the drawings hereby permitted shall be installed unless authorised by a prior grant of planning permission.

Reason: In the interest of visual amenity.

5. The following details shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development -

- (a) Details of the new windows and glazed doors of the bottling plant showing a like-for-like replacement in terms of material, detailing and design (including subdivisions).

- (b) Drawings that show the retention of the front walkway railings (apart from where the opening is proposed) and the flanking entry steps of the bottling plant.

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- (c) Design of the material, colour and design intent of the rear and side elevations of the section of the bottling plant that is to be retained.
- (d) All specifications and methodologies relating to the portion of the bottling plant that is to be retained.

Reason: In the interest of the protection of the architectural heritage of the site.

- 6. Within six months of the date of this Order, the following details shall be submitted to the planning authority, Conservation Officer and the Irish Architectural Archives.

An isometric drawing of the bottling plant based on the elevation sketch (Figure 4.6) in the Heritage Report by Citydesigner and also incorporating the removed rear structure with that sawtooth roof.

Reason: In the interest of acknowledging the architectural heritage of the site,

- 7. 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

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- (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.

8. (a) Prior to commencement of development, the developer shall identify areas of importance/retention within the bottling plant, for example, chimney and yellow brick elevation and ensure it is adequately protected for the duration of the works.
- (b) A detailed photographic and measures survey of the elevation for retention shall be undertaken and submitted to the planning authority.

Reason: In the interest of recording and preserving the industrial heritage of the site.

9. The developer shall prepare an Invasive Species Management Plan for the written agreement of the planning authority, and all plant and machinery used during the works should be thoroughly cleaned and washed before delivery to the site to prevent the spread of hazardous invasive species and pathogens.

Reason: In the interest of the proper planning and sustainable development of the area

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10. The critical root zone of the trees to be retained shall be identified by an arborist and this area shall be fenced off before any equipment, machinery or materials are brought onto the site for the purposes of the development, and shall be maintained until all the equipment, machinery and surplus materials have been removed from site. No trees (excepting the one identified to be removed) shall be cut down, uprooted or destroyed nor shall any tree be topped or lopped during or after construction within the prior written agreement of the planning authority. No sound tress or hedgerows shall be removed unless their removal is necessitated by a condition of this permission.

Reason: In the interest of protecting and conserving the trees and hedgerows on the site.

11. Details of a suitably qualified ecologist retained to supervise works along with a summary of the mitigation measures employed and the results of any surveys shall be forwarded to the planning authority.

Reason: In the interest of protecting the ecology of the area and to ensure no negative impact on any protected species which may be using the site

12. Where feasible, the planting of native pollinator friendly species of plants and trees shall be incorporated into the landscape plan.

Reason: To enhance the biodiversity of the site.

13. Construction works shall only take place between the months of August and April.

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Reason: To prevent disturbance to nesting birds and in the interest of nature conservation.

14. Prior to the commencement of development, the developer or any agent acting on its behalf, shall prepare a Resource Waste Management Plan (RWMP) as set out in the EPA's Best Practice Guidelines for the Preparation of Resource and Waste Management Plans for Construction and Demolition Projects (2021) including demonstration of proposals to adhere to best practice and protocols. The RWMP shall include specific proposals as to how the RWMP will be measured and monitored for effectiveness; these details shall be placed on the file and retained as part of the public record. The RWMP must be submitted to the planning authority for written agreement prior to the commencement of development. All records (including for waste and all resources) pursuant to the agreed RWMP shall be made available for inspection at the site office at all times.

Reason: In the interest of sustainable waste management.

15. 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 and for the ongoing operation of these facilities 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.

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16. Due to the former industrial use of the area, there is a possibility that the site is contaminated. Prior to commencement of development, the developer shall engage the services of the recognised environmental consultant in the field of land contamination to -

- (i) carry out a site investigation from a land contamination viewpoint,
 - (ii) carry out a risk assessment,
 - (iii) recommend remedial measures, and
 - (iv) prepare a report containing all the above in the standard format.
- This report shall be submitted to the local authority for its written approval before commencement of development.

Reason: In the interest of environmental protection.

17. Prior to commencement of development, a detailed Construction Environmental Management Plan (CEMP) for the construction phase shall be submitted to and agreed in writing with the planning authority. The CEMP shall incorporate the following: (a) a detailed plan for the construction phase incorporating, inter alia, construction programme, supervisory measures, noise, dust and surface water management measures including appointment of a site noise liaison officer, and the management, transport and disposal of construction waste; (b) a comprehensive programme for the implementation of all monitoring commitments made in the application and supporting documentation during the construction period; (c) an emergency response plan; and (d) proposals in relation to public information and communication. A record of daily checks that the works are being undertaken in accordance with the Construction Environmental Management Plan shall be kept for inspection by the planning authority.

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Reason: In the interest of environmental protection and orderly development.

18. (a) Noise during site clearance and construction shall not exceed 65 dB(a), Leq 30 minutes and the peak noise shall be exceed 75 dB(A) when measured at any point off-site.
- (b) Working hours during site clearance and construction shall be restricted to between 0700 to 1900 hours on Monday to Friday and 0800 and 1400 hours on Saturday. Activities outside these hours shall require the prior written approval of the planning authority.
- (c) Bored piling as opposed to percussive piling shall be used during site clearance and construction

Reason: In the interest of residential amenity.

19. The developments' spine road (on the northern boundary of the site) shall include a shared use or segregated pedestrian and cyclist route with a minimum width of three metres. This facility shall be designed in accordance with the Design Manual for Urban Roads and Streets (DMURS) and shall achieve the standard required to meet the objective set out in the Cork City Development Plan 2022-2028.

Reason: In the interest of pedestrian and cyclist safety.

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20. All public lighting requirements associated with the proposed development including new public lighting and amendments to existing public lighting shall be agreed with the planning authority prior to commencement of development. The design shall minimise light spill, shall be in accordance with the relevant mitigation measures set out in the Environmental Impact Assessment Report, and be designed to minimise any undue impacts upon bats, otters and fish. These works shall be undertaken and paid for by the developer. All public lighting design shall be carried out in accordance with Cork City Council Exterior Lighting Design Requirements Revision 10, Code of Practice BS 5489-1:2020. Design of road lighting – lighting of roads and public amenity areas and BS EN 13291 – Road Lighting.

Reason: In the interest of traffic safety, to safeguard protected species and to minimise visual impacts.

21. The total parking supply to service the development shall be as follows –
- (a) The provision of a maximum of 83 car parking spaces inclusive of four disabled parking spaces, eight motorcycles spaces and a minimum of one EV charging space to service the full development. A minimum of eight further spaces shall incorporate ducting to allow for future fit out of EV charging spaces.
 - (b) The provision of a minimum of 120 covered cycle parking facilities.

Reason: In the interest of traffic safety.

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22. Prior to commencement of development, the developer shall enter into water and/or wastewater connection agreement(s) with Uisce Eireann.

Reason: In the interest of public health.

23. The disposal of surface water shall comply with the requirements of the planning authority for such works.

Reason: To ensure adequate servicing of the development, and to prevent pollution.

24. Notwithstanding any of the foregoing conditions, mitigation measures against the risk of flooding, as outlined in the Floor Risk Assessment report submitted as part of this application shall be implemented as presented. Any proposed changes to these mitigation measures shall be discussed and agreed in writing with the planning authority prior to implementation.

Reason: In the interest of public health.

25. 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

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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.



Peter Mullan

Member of An Bord Pleanála

**duly authorised to authenticate
the seal of the Board.**

Dated this 13th day of December, 2023.

**An amendment to this
Board Order has been made**

Dated 25/01/2024

Signed: Secretary 