



An  
Bord  
Pleanála

## Board Order ABP- 313919-22

### Planning and Development Acts 2000 to 2022

#### Planning Authority: Cork City Council

**Application** for permission under section 4 of the Planning and Development (Housing) and Residential Tenancies Act 2016, as amended, in accordance with plans and particulars, lodged with An Bord Pleanála on the 28<sup>th</sup> day of June 2022 by Hibernia Star Limited care of HW Planning of 5 Joyce House, Barrack Square, Ballincollig, Cork.

#### **Proposed Development comprises of the following:**

489 number apartments, creche and offices in five number blocks ranging in height from part one to part eight number storeys over lower ground and semi-basement podium levels. The proposed development is located adjacent to a Strategic Housing Development permitted by An Bord Pleanála ABP-301991-18 and amended by ABP-310378-21 containing six number blocks (Blocks, 3, 4, 7, 8, 9 and 10) with existing Blocks 1, 2, 5 and 6 constructed on foot of Register Reference T.P. 24609/00.

The development will contain one number studio, 161 number one-bedroom apartments and 327 number two-bedroom apartments.

- Block 11 is part three to part six number storeys over semi-basement podium and lower ground levels and will contain 101 number apartments.
- Block 12 is part one to part four number storeys over undercroft car parking and lower ground level office building (4,112 square metres) comprising 2,934 square metres of office floor area.

- Block 13 is part two to part eight number storeys over lower ground level and will contain a creche over two number levels (381 square metres) and 39 number apartments.
- Block 14 is part three to part six number storeys over lower ground level and contains 130 number apartments.
- Block 15 is part three to part six number storeys over semi-basement, podium and lower ground level and contains 219 number apartments and ancillary resident amenity spaces (576 square metres).

Blocks 12 and 13 will contain ancillary commercial areas including a crèche (381 square metres) and offices (4,112 square metres). The development will also contain supporting internal resident amenity spaces (576 square metres) and external communal amenity spaces.

The proposed development also provides for hard and soft landscaping, boundary treatments, public realm works, car parking, bicycle parking, bin stores, signage, lighting, photovoltaic panels, sprinkler and water tank, substations, plant rooms and all ancillary site development works above and below ground all located at Jacob's Island, Ballinure, Mahon, Cork.

## **Decision**

**Refuse permission for the above proposed development in accordance with the said plans and particulars based on the reasons and considerations under.**

## Reasons and Considerations

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

1. Objective 11.2 Dwelling Size Mix as set out in the Cork City Development Plan 2022-2028 requires that all planning applications for residential developments or mixed use comprising more than 50 dwellings are required to comply with the target dwelling size mix specified in Tables 11.3-11.9, apart from in exceptional circumstances. The proposed development does not provide for a dwelling size mix that accords with this objective. The proposed development would materially contravene objective 11.2 of the Cork City Development Plan 2022-2028 and would therefore, be contrary to the proper planning and sustainable development of the area.
2. The Board considered that further consultation with the planning authority is required. The applicant has not demonstrated to the satisfaction of the Board what works, or other changes are required to increase the capacity of Mahon Interchange to limit the impact of the proposed development on the road network particularly the N40. The development is therefore premature.

In deciding not to accept the Inspector's recommendation to grant permission, the Board considered the totality of the file, the Board did not concur with the Inspectors recommendation to grant permission.

The two issues where the Board differed to the Inspector were:

1. The Dwelling Size Mix. The Inspector concluded that the dwelling size mix in the Cork City Development Plan 2022-2028 is not supported by the Housing Needs Demand Assessment and therefore had regard to the Sustainable Urban Housing Design Standards for New Apartments 2023 Specific Planning Policy Requirement 1 (SPPR 1), in determining the appropriate dwelling size mix.

The Board considered that the objectives as set out in the Cork City Development Plan 2022-2028 regarding dwelling size mix is informed by the Housing Need Demand Assessment (HNDA). The Board in coming to this conclusion considered the following:

- (a) Cork City Development Plan, Chapter 2, Core Strategy, sets out the supporting studies and strategies carried out that provide the evidence base for the Plan. This includes:
- The Cork City Joint Housing Strategy and Housing Need Demand Assessment (HNDA), this “provides an evidence base to inform development plan targets for housing and population, and to understand the likely mix of households looking to find a home in Cork City and County. The HNDA and Housing Strategy provide the necessary analysis and policy recommendations to ensure that housing demand supply will be met”.
  - The Cork City Neighbourhood profile, “the profile provides the evidence to inform developers, planners and the wider community to make evidence-based decisions on the nature, mix and form of new development at neighbourhood level.
- (b) Cork City Development Plan, Chapter 3, Delivering Homes paragraph 3.17, states that “The Joint Cork City and Cork County Housing Strategy/Housing Need and Demand Assessment (HNDA) establishes the housing targets for net housing completions for the Development Plan period. Paragraph 3.33 of this Chapter states, “The HNDA illustrates that housing will be needed to provide for the household sizes set out in Table 3.4 in Cork City during the period of the Development Plan.”
- (c) Cork City Development Plan, Chapter 11, Placemaking and Managing Development, paragraph 11.77 States, “*The HNDA has provided the basis for the dwelling size mix across Cork City and the identification of targets for the whole development plan period. Cork City Council has applied the household size distribution from the HNDA population modelling for the City to dwelling sizes to provide guidelines to be*

*applied in the planning system to ensure that the forecast households will be able to find suitable accommodation in Cork City*". Objective 11.2 sets out the requirements for dwelling size mix and references the relevant tables that relate to the different parts of Cork City, Tables 11.5 to 11.9. Table 11.8 sets Minimum, Maximum and Target percentages for dwelling type mix for Studios, 1 Bedroom, 2 Bedroom, 3 Bedroom and 4 Bedroom/ larger units for the geographical area City Suburbs. This site is in the city suburbs.

The Board noted, as referenced by the Inspector that the joint HNDA, paragraph 1.3 states "dwelling size mix has not been presented due to a lack of suitable data (as the Census does not record sufficient data on dwellings sizes or bedrooms to provide an accurate forecast)". The Board considered the wording of SPPR 1 - in the Sustainable Urban Housing: Design Standards for New Apartments that state, "Statutory development plans may specify a mix for apartment and other house developments, but only further to an evidence -based Housing Need Demand Assessment (HNDA)...". The Board having read the Plan considered that while the HNDA did not specify the dwelling size mix, the mix of dwelling sizes was informed and supported by the HNDA, specifically the household size distribution. The Cork City Development Plan 2022-2028, Chapter 11, built on the evidence base in the joint HNDA to provide clear guidance on Dwelling Size Mix, and the plan sets out clear criteria for dwelling size mix in Objective 11.2.

The Cork City Development Plan provides for a detailed dwelling size mix Objective that was devised further to the evidence as set out in the HNDA. The Board concluded that this takes precedence over SPPR1 - in the Sustainable Urban Housing: Design Standards for New Apartments. The Board did not concur with the conclusion in the Inspectors Report that the proposed development should be granted having regard to SPPR1 - in the Sustainable Urban Housing: Design Standards for New Apartments rather than the requirements set out in objective 11.2 and associated tables, contained in Chapter 11 of the Cork City Development Plan. Therefore, the Board decided not to invoke the provisions of section 37(2)(b)(iii) of the

Planning and Development Act 2000, as amended as there is no conflict with Specific Planning Policy Requirements or section 28 guidelines.

Other matters relating to housing mix considered by the Board:

The Board considered the flexibility in objective 11.2 *"Where a clear justification can be provided on the basis of market evidence that demand / need for a specific dwelling size is lower than the target then flexibility will be provided according to the ranges specified."* The Board considered the justification provided by the applicant, that included information that was provided for in The Cork City Neighbourhood Profile and therefore, informed the making of the Plan including dwelling size mix. The applicant also provided a breakdown of the existing residential units on Jacob's Island, but did not include the permitted residential units (under An Bord Pleanála reference number ABP-301991-18 as amended by ABP-310378-21). The Board concluded the justification provided does not satisfy the requirement of the Plan *"a clear justification can be provided on the basis of market evidence that demand / need for a specific dwelling size is lower than the target"*.

The Board agreed with the Inspector that the significant disparity between the proposed mix and the range specified in Table 11.8 extends beyond the reasonable realm of 'flexibility'.

The Board noted the high percentage of two bed four person apartments in the proposed scheme and the fact that a significant number are of a size greater than the requirements as set out in the guidelines, but the Board decided that this does not address or justify the difference between the dwelling size mix proposed and the dwelling size mix in the Development Plan.

The Board also considered that if the mix of Dwelling unit size could be addressed by way of condition as recommended by Cork City Council, condition number 4, but in this instance the Board considered that this would



require a significant alteration to the proposed scheme and that this was not appropriate.

The Board having concluded that the Development Plan sets out a clear dwelling size mix, that was informed by the evidence-based HNDA, and that therefore, the proposed dwelling size mix materially contravenes the Plan, did not consider materially contravening the Plan based on the provisions of section 37(2)(b)(i) of the Act would be justified. The Board considered the development is not of strategic or national importance to warrant materially contravening the Cork City Development Plan 2022-2028.

The Board had no evidence before it that supported materially contravening the development plan on the basis of the provisions of section 37(2)(b)(iv) of the Act. The Board noted the adjoining Strategic Housing Development was granted under the previous development plan and therefore the dwelling size mix did not apply.

2. Traffic generation and capacity of the Road Network. The Board noted the applicants Traffic and Transport Assessment proposal to address the increase in the queue length on the Mahon Link includes, "to undertake discussions with the Council in advance of the full masterplan development to perform a review of the signal operations of both junctions. It is likely that this queuing could be reduced by linking the 2 signalised junctions, or by improving the stages or run time". Cork City Council internal report, Traffic Regulation and Safety Section states that "The junctions already operate on a linked basis, and it is considered that currently the signal timing and phasing are optimised, and no further improvements can be made to mitigate against an increase in traffic". The Traffic Regulation and Safety Section of the planning authority recommend refusal but do include conditions if granted. Condition number 2 recommended by the planning authority aligns with the condition recommended by the Traffic Regulations and Safety Section of the planning authority.

Transport Infrastructure Ireland submission is summarised by the Inspector and includes “that insufficient data has been submitted to demonstrate that the proposed development will not have a detrimental impact on the capacity, safety or operational efficiency of the national road network in the vicinity of the site”.

The National Transport Authority submission refers to the importance of aligning the delivery of further housing with the delivery of Cork Metropolitan Area Transport Strategy public transport infrastructure and services along with the completion of connecting walking and cycling infrastructure.

The Inspectors conclusion on this issue is that given that any additional queuing can be comfortably accommodated, that the development should not be rejected solely on grounds of traffic congestion. The Inspector acknowledges the planning authorities’ position but considered that reconsideration of junction arrangements warrants reinvestigation.

The Inspector recommended a condition to increase capacity, condition number 5. This condition is similar though not identical to condition number 2 recommended by the planning authority. The condition required provision be made to increase the capacity of Mahon Interchange, this is to be agreed with the planning authority prior to commencement and all costs associated with the design, construction and supervision of the works is to be borne by the applicant.

The Board considered that this condition did not clearly identify what works are required nor does it provide an estimate of costs. The Board noted; the importance of the N40 to the metropolitan road network and the wider region, and the fact that Mahon Interchange is the vehicular access point to Jacob’s Island. Existing and proposed services such as schools, and the planned Luas stop require residents of Jacobs Island to traverse the N40, and that while segregated pedestrian and cycle networks serve Jacobs Island the direct route is the public road. The Board, therefore, concluded that clarity was required on this matter and that it was premature to grant permission until the



issue the subject of the proposed condition has been addressed by the applicant in consultation with the planning authority.

  
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Mary Henchy

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

Dated this 9<sup>th</sup> day of January 2025