

An
Bord
Pleanála

Board Order ABP-315085-22

Planning and Development Acts, 2000 to 2022

Planning Authority: Limerick City and County Council

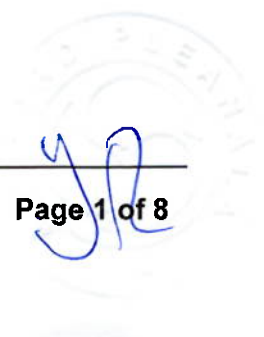
(Associated application reference number: ABP-304028-19)

REQUEST received by An Bord Pleanála on the 11th day of November 2022 from Limerick City and County Council care of Tom Phillips and Associates, 80 Harcourt Street, Dublin 2, under section 146B of the Planning and Development Act, 2000, as amended, to alter the terms of a mixed-use development described as the Opera Square, Limerick City,

WHEREAS the Board made a decision to grant permission, subject to conditions, for the above-mentioned development by order dated the 27th day of February 2020 under the An Bord Pleanála reference number ABP-304028-19,

AND WHEREAS the Board decided that alterations to the above-mentioned decision, that were requested on 17th day of November 2021, would not result in material alterations to the terms of the development and so altered the decision under An Bord Pleanála reference number ABP-311981-21,

AND WHEREAS the Board has received another request to alter the terms of the development, the subject of the permission,



AND WHEREAS the proposed alteration comprises the following:

Parcel 1

Introduction of landscaped areas to roof terraces at 4th and 5th floors and increase in solar panels at roof level.

Parcel 3A4

- Façade design alterations to comply with Nearly Zero Energy Building (NZEB) and Building Regulations Technical Guidance Document Part L (Conservation of Fuel and Energy – Buildings other than dwellings) requirements,
- Reconfigured building cores, stairs and lifts,
- Allowance for renewable sources for energy for heating and cooling,
- Relocation of the café from basement to ground floor,
- Widening of the circulation only bridges to create usable galleries overlooking the atrium and public realm,
- Changes to the building footprint, including a 2.5 metre extension eastwards at upper levels and new covered walkway connecting into the Granary courtyard.

Parcel 3B

- Amendments including internal alterations, façade design changes and apartment reconfiguration replacing the permitted 3 number 2 bedroom units with 6 number 1 bedroom units.

Parcel 5

- Façade design amendment to satisfy NZEB and Technical Guidance Document Part L,
- Rationalised building core to provide open floor plates,
- New roof terraces at 3rd and 12th floors,
- The alterations will result in an increase in floor area of 2,643 square metres (670 square metres excluding basement).

Parcel 6

- Omission of basement,
- Internal and external design modifications,

- Introduction of fully accessible raised walkway through the Granary courtyard connecting Bank Place to Opera Square.

Public Realm

- Changes to the landscaping rational and design including permitted 'Opera Square' providing for universal access and permeability,
- Provision of external terrace to serve the library,
- Redesign of landscaping plan at Bank Place.

Site Services

- 2 number changes to surface water drainage design,
- Use of watermain along Michael Street rather than from Rutland Street as originally proposed,
- Increased in finished floor level from 5.32 metres OD to 5.57 metres OD.

AND WHEREAS the Board considered that the alteration would result in a material alteration to the terms of the development, the subject of the approval,

AND WHEREAS having regard to the nature of the issues involved, the Board invoked the provisions of section 146B(8)(a) of the Planning and Development Act, 2000, as amended, to invite submissions or observations in relation to the matter from members of the public, and prescribed bodies,

AND WHEREAS having considered these submissions / observations and documents on file and the Inspector's initial report, the Board considered that the making of the proposed alteration would be likely to have significant effects on the environment, and requested the applicant to submit an Environmental Impact Assessment Report,

AND WHEREAS following receipt of the Environmental Impact Assessment Report from the applicant, the Board invited further submissions / observations in relation to the matter from members of the public and prescribed bodies,

AND WHEREAS having considered all documentation from the applicant, submissions/observations and the reports of the Inspector, the Board considered that the proposed alteration would be acceptable,

NOW THEREFORE in accordance with section 146B(3)(b)(i) of the Planning and Development Act, 2000, as amended, the Board hereby alters the abovementioned decision so that the permitted development shall be otherwise altered in accordance with the plans and particulars received by An Bord Pleanála on the 11th day of November 2022 and the 7th day of June 2023.

REASONS AND CONSIDERATIONS

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

- (i) the extant permission for the mixed-use development on the site granted under An Bord Pleanála Reference ABP-304028-19,
- (ii) the rationale for the proposed alterations as set out in the application documentation, in particular Chapter 3 of the submitted Environmental Impact Assessment Report,
- (iii) national, regional, and local plan policy including the land use zoning objective for the development site,
- (iv) the nature and scale of the proposed alterations,
- (v) the documentation on file including the Environmental Impact Assessment Report received by the Board on 7th day of June 2023, and
- (vi) the report of the Inspector.

Appropriate Assessment

The Board noted that the proposed development is not directly connected with or necessary for the management of a European Site.

In completing the screening for Appropriate Assessment, the Board accepted and adopted the screening assessment and conclusion reached in the Inspector's report that the Lower River Shannon Special Area of Conservation (Site Code: 002165) and River Shannon and River Fergus Estuaries Special Protection Area (Site Code:

004077) are the European sites for which there is a possibility of significant effects and which, must therefore be subject to appropriate assessment.

The Board considered the Natura Impact Statement and all other relevant submissions and carried out an appropriate assessment of the implications of the proposal for the Lower River Shannon Special Area of Conservation (Site Code: 002165) and River Shannon and River Fergus Estuaries Special Protection Area (Site Code: 004077), in view of the Sites' conservation objectives. The Board concluded that the information before it was adequate to allow for a complete assessment of all aspects of the proposed development and to allow them reach complete, precise, and definitive conclusions for appropriate assessment.

In completing the appropriate assessment, the Board considered, in particular, the following:

- i. the likely direct and indirect impacts arising from the proposed development both individually or in combination with other plans or projects,
- ii. the mitigation measures which are included as part of the proposal,
- iii. the conservation objectives for the European Sites, and
- iv. the views contained in the submissions.

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 integrity of the aforementioned 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 approved development to be amended,
- (b) the Environmental Impact Assessment Report and associated documentation submitted with the application,

- (c) the reports and submissions received from the applicant during the course of the application, and
- (d) the Inspector's report.

The Board agreed with the summary and examination set out in the Inspector's report, of the information contained in the Environmental Impact Assessment Report and associated documentation submitted by the applicant. The Board is satisfied that the Inspector's report sets out how these were addressed in the examination and recommendation and are incorporated into the Board's decision.

The Board considered that the Environmental Impact Assessment Report, supported by the documentation submitted by the applicant, adequately considers alternatives to the proposed amendments to the approved development and identifies and describes adequately the direct, indirect, secondary and cumulative effects of the proposed amendments to the approved development on the environment. The Board agreed with the examination, set out in the Inspector's report, of the information contained in the Environmental Impact Assessment Report and associated documentation submitted by the applicant.

Following on from this assessment, it is considered that the main significant direct and indirect effects (positive and negative) of the proposed amendments to the approved scheme on the environment are those arising from the impacts listed below:

- **Population and human health:** The 6 number apartment units to be provided in Parcel 3B will fall short of the recommendations of the current BRE 209 guidelines edition 3 June 2022. Mitigation of the impacts is not possible and has to be balanced against the overall gain that will be achieved through the development of this inner-city site and which provides for the retention and integration of the said historic fabric. An adequate level of amenity will be provided for prospective occupants.
- **Air and Climate:** The redesign of the tall building in Parcel 5 will provide for a positive impact on the microclimate of the proposed amenity space on Bank Place. The removal of the dense tree planting that was required in the approved scheme can be omitted allowing for an opening up of the proposed amenity space.

- **Landscape (Townscape):** The redesign of the tall building in Parcel 5 provides for a greater assimilation into the streetscape in near views. The revised building design arising from the alterations in the internal alignment and reduced glazing presents as a more solid form and intervention in the skyline in medium and distant views.

Notwithstanding the conclusion reached in respect of the inability to attain the recommended daylight and sunlight provisions in the proposed 6 number residential units in parcel 3B, it is considered that the environmental effects would not justify a refusal of approval having regard to the overall benefits of the proposed development.

Conclusion on Proper Planning and Sustainable Development

The proposed amendments to the approved scheme would be in accordance with the proper planning and sustainable development of the area.

Conditions

1. Apart from any departures specifically authorised by this alteration, the development shall be carried out and completed in accordance with the terms and conditions of the permission granted on the 27th day of February 2020 under An Bord Pleanála reference ABP-304028-19, as amended by the alterations approved on the 17th day of January 2022 under An Bord Pleanála reference ABP-311981-21, except as may otherwise be required in order to comply with the following conditions.

Reason: In the interest of clarity and to ensure that the overall development is carried out in accordance with the previous permission.

2. In addition to Condition numbers 3 and 4 of An Bord Pleanála reference ABP-304028-19, all environmental mitigation measures set out in the Environmental Impact Assessment Report, Natura Impact Statement, and associated documentation submitted by the applicant, received by An Bord Pleanála on 7th day of June 2023, shall be implemented in full.

Reason: In the interest of environmental protection.



Tom Rabbette

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

Dated this 4th day of Jan. 2024