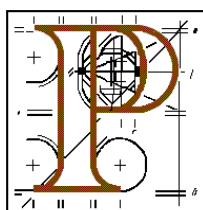


An Bord Pleanála



Inspector's Report

Proposed Development: Permission for the demolition of existing single storey hospital blocks nose 1, 2, and associated ancillary structures, the construction of a two and three storey primary care centre, the construction of a new surface car park, revised layout to main entrance from Bakers Road, ancillary site works and all associated external works and all associated external works on the grounds of St. Mary's Health Campus, Gurrabraher, Cork.

Planning Application

Planning Authority: Cork City Council
Planning Authority Reg. Ref.: 15/36336
Applicant: HSE
Type of application: Permission
Planning Authority Decision: Grant planning permission

Planning Appeal

Appellants: HSE
Observers: None
Type of appeal: First Party against development Contribution
Site Inspection: 7th December, 2015

Inspector: A. Considine

1.0 THE SITE

- 1.1 The subject site is located in the northern area of Cork City and within the grounds of the existing St. Mary's Health Campus at Gurranebraher. The original hospital campus was developed in the 1950's and operated as an acute orthopaedic hospital until late 2011 when the orthopaedic services were transferred to the South Infirmary. The hospital complex has a number of entries on the NIAH, including the gates and gate lodges, ref 20862010 and the two easternmost single storey ward buildings which are to be demolished ref 20862004.

- 1.2 The full campus currently comprises the Gate House, located to the east of the overall site, with Grove House (the original Nurses Home but now used to provide Intellectual Disability Residential Services) and Blocks 7 – 9 located to the south of the access road to the overall site. To the north of this access road, there are 12+ buildings which include an administration building, laundry, mortuary, chapel, health centre, ambulance base. In addition, there are 4 blocks of wards and Heather House which is a 50 bed Community Nursing Home facility. To the west of the Gate House, Ambulance Base and Health Centre, located to the east of the site and to the south of the administration building, and east of the two blocks to be demolished as part of this proposed development, there is a large landscaped area. The overall campus also has additional open spaces to the south of the buildings to the south of the main access road.

- 1.3. The site covers a stated area of 1.63ha and includes the area of the overall site currently occupied by blocks 1 and 2 and lands to the north of these two block. From the information submitted the two ward blocks to be demolished were previously occupied by the Orthopaedic Hospital Wards. Since the transfer of Orthopaedic services to the South Infirmary, blocks 1-9 and the associated laundry block were no longer required. Some of these buildings have been adapted for alternative accommodation, including blocks 2, 4, 7 and part of block 8.

- 1.4 The overall campus is bound to the north by residential properties located on Harbour View Road, by VEC lands, including a school and playing fields, to the west and residential properties fronting onto Baker's Road to the east. There are additional residential properties and open spaces located to the south of the overall campus. Access to the site is via Baker Road through an existing gated entrance to the

east of the overall campus site. The single access also facilitates pedestrian access.

2.0 PROPOSED DEVELOPMENT

2.1 Permission is sought for the demolition of existing single storey hospital blocks nose 1, 2, and associated ancillary structures, the construction of a two and three storey primary care centre, the construction of a new surface car park, revised layout to main entrance from Bakers Road, ancillary site works and all associated external works and all associated external works on the grounds of St. Mary's Health Campus, Gurrabraher, Cork.

2.2 The development will consist of the following elements:

1. The demolition of 2 existing single storey ward buildings.
2. The construction of a two and three storey primary care centre
3. Construction of a new car park to the north of the proposed Primary Care Centre comprising 134 car parking spaces.
4. Upgrading of the existing entrance to the site and access road to service the proposed PCC and the other existing buildings on the site.
5. Associated foul and surface water drainage infrastructure.

2.3 The development will connect to the public water services via a new foul sewer. This sewer will discharge to the public combined sewer on Baker's Road at the main entrance to the site and the existing site combined sewer downstream of the diversion will be decommissioned. Water shall be supplied via the existing water connections to the campus and additional fire hydrants will be provided.

2.4 The application was supported by all the relevant documentation including all the relevant plans and drawings, public notices, remittance slip in lieu of appropriate fee for planning application, architects report, engineers report, parking assessment and a schedule of floor areas.

3.0 REPORTS ON PLANNING AUTHORITY FILE

- 3.1 There are 5 no. internal reports from internal department within Cork City Council including the Conservation Officer, Drainage Section, Environment, Traffic & Transport Section and Water Services. (reports on file).
- 3.2 There are no external reports noted on the Planning file.
- 3.3 There are no third party submissions / objections noted on the planning file.
- 3.4 The Planning Authority report had regard to the policies and objectives contained within the City Development Plan, as well as the zoning afforded to the site and the current uses associated with the site. The report further considered the nature of the proposed development and the submissions made in the course of the PAs assessment of the proposed development. The Planning Officer also dealt with issues associated with EIA and AA, heritage issues, access and car parking, landscaping and services, and concluded that further information was required. The Planning Officer also dealt with the development contribution scheme and notes that there is no evidence of Development Contributions having being levied on the campus in the past.
- 3.5 The Planning Authority sought additional information in relation to roads & traffic issues including pedestrians, car parking, bus pick up / set down, external lighting, signage and Road Safety Impact Assessment and Stage 2 Road Safety Audit.
- 3.6 Following receipt of response to the FI request, there was one internal reports from the Transportation and Mobility Division. The report concludes with no objections to the proposed development subject to the inclusion of conditions including the payment of a special development contribution of €250,000 towards the cost of upgrading the junction of Mary's Health Campus with Baker's Road. (Report on file).

- 3.7 Following receipt of response to the FI request, there are no external reports noted on the Planning file.
- 3.8 Following receipt of response to the FI request, there are no third party submissions / objections noted on the planning file.
- 3.9 Following receipt of response to the FI request, the Planning Officers report considered same and noted that the development was acceptable and concluded that the following financial conditions be included:
- Special Development Contribution of €250,000
 - Development Contribution in the amount of €383,749.22 to Cork City Council and €196,973.42 to Uisce Eireann
 - Bond €52,500

4.0 DECISION OF THE PLANNING AUTHORITY

The Planning Authority decided to grant planning permission for the proposed development subject to 14 conditions, generally standard in the main.

- Condition 12 requires the lodgement of a bond in the amount €52,500.
- Condition 13 requires the payment of a development contribution in the amount of €383,749.22 to Cork City Council
- Condition 14 requires the payment of a special development contribution in the amount of €250,000 in respect of specific exceptional costs which have been or will be incurred in respect of upgrading the junction of St. Mary's Health Campus with Baker's Road, being public infrastructure and facilities which will benefit the proposed development.

5.0 RELEVANT PLANNING HISTORY

The following is the relevant planning history pertaining to the subject site:

TP08/32970: Permission granted for the construction of a community nursing unit, comprising a one-storey wing, t-shaped on plan, containing 50 bed spaces in single and shared rooms with en-suite bathrooms and support facilities, 40 car parking spaces, 3 garden courtyards and a service compound, at the western end of St, Mary's Health Campus.

6.0 POLICY CONTEXT:

Local Context:

6.1. Cork City Development Plan 2015-2021:

6.1.1 Chapter 15 of the City Plan deals with land use zoning objectives. The subject site is covered by two zonings with (approximately) the southern half of the site is zoned objective ZO 4, *Residential, Local Services and Institutional Uses*. Objective ZO 5 seeks to protect and provide for residential uses, local services, institutional uses, and civic uses, having regard to employment policies outlined in Chapter 3.

6.1.2 The site is also covered by Objective 10.4 which deals with Areas of High Landscape Value and where it is the objective of the PA to conserve and enhance the character and visual amenity of Areas of High Landscape Value (AHLV) through the appropriate management of development, in order to retain the existing characteristics of the landscape, and its primary landscape assets. Development will be considered only where it safeguards to the value and sensitivity of the particular landscape. There will be a presumption against development where it causes significant harm or injury to the intrinsic character of the Area of High Landscape Value and its primary landscape assets, the visual amenity of the landscape; protected views; breaks the existing ridge silhouette; the character and setting of buildings, structures and landmarks; and the ecological and habitat value of the landscape.

6.1.3 The site is affected by a proposed new or realigned street and in this regard, Sections 5.26 and 5.27 are relevant in that they deal with the Local Street Network. This section of the City Development Plan state as follows:

5.26 The local street network is used by used by pedestrians, cyclists, private cars, and buses, and heavy goods vehicles for getting around the city. In addition to facilitating traffic movement, streets also create a “sense of place”. Sense of place issues relating to a quality built environment and public realm are addressed in more detail in Chapters 13 (City Centre and Docklands) and 16 (Development Management); full principles are set out in the national Design Manual for Urban Roads and Streets .

Objective 5.16 Design Approach for Local Streets Both the construction of new local streets as well as works to the existing local network shall be in accordance with principles, approaches, and standards set out in Design Manual for Urban Roads and Streets.

5.27 Extensive new local streets infrastructure is planned to facilitate redevelopment of the Docklands, including three bridges; there are also plans for new streets in some suburban locations. New local streets objectives and the status of each are as follows:

Objective 5.17, Additions to Local Street Network, section (g) provides for New Street from Harbour View Road, through St. Mary’s Orthopaedic Hospital, to Baker’s Road.

6.1.4 Chapter 16 deals with Urban Design while chapter 17 deals with Development Management guidelines.

6.2 Cork City Development Contribution Scheme 2012:

The Development Contribution Scheme in prepared in order to comply with the requirements of the Planning & Development Act, 2000 (as amended). Cork City Council, by resolution, made a scheme in 2012.

6.3 Cork City Supplementary Development Contribution Scheme 2015:

The Supplementary Development Contribution Scheme in prepared in accordance with Section 49 of the Planning & Development Act, 2000 (as amended), which enables a planning authority when granting a permission under Section 34 of the Act, to include conditions requiring the payment of a contribution in respect of any public infrastructure service or project as defined in the Act and specified in the Supplementary Development Contribution Scheme.

7.0 GROUNDS OF APPEAL

7.1 This is a first party appeal against condition no 14 of the planning authority decision to grant permission for the proposed development. The condition deals with the upgrading of the junction of St. Mary's Health Campus with Baker's Road. The submission submits that:

- The contribution is excessively high in respect to the quantified cost of improving the junction.
- A cost estimate was carried out by the Project Cost Consultant pre-response to the further information request which showed a figure of approximately €40,000.
- There is no objection to contributing to achieve the overall objective of improving general traffic and pedestrian safety infrastructure in a proportionate manner. The applicant is willing to make a proportionate financial contribution to the upgrading and signalisation of the Baker's Corner Junction.

No details of the project cost breakdown are provided by the first party.

8.0 RESPONSES TO APPEAL

8.1 Planning Authority response to First Party Appeal:

The Planning Authority submitted a letter to the Board in response to this first party appeal. The contents provide a breakdown of the contribution calculations as requested by the Board. The total is indicated at €250,127.21 and includes all relevant costs, extras and VAT.

9.0 OBSERVERS RESPONSES TO APPEAL

There are no observations submitted in relation to this appeal.

10.0 ASSESSMENT

10.1 This assessment relates to a first party appeal under S48(10) of the Planning & Development Act, 2000 as amended. The first party has appealed condition 14 of the decision of Cork City Council to grant permission for the proposed development.

- S.48(10)(a) provides that no appeal shall lie to the Board in relation to condition requiring a contribution to be paid in accordance with a scheme made under this section.
- S.48(10)(b) provides that an appeal may be brought to the Board where an applicant for permission under section 34 considers that the terms of the development contribution scheme have not been properly applied in respect of any condition laid down by the planning authority.
- Section 48(10)(c) states that where an appeal is brought in accordance with paragraph (b), and no other appeal of the decision of the planning authority is brought under Section 37, the planning authority shall make the grant of permission as soon as may be after expiration of the appeal period, provided the appellant furnishes adequate security for the payment of the full amount of the contribution as specified in the condition.

10.2. This is an appeal under S48(10)(b) of the Act against condition 14 of the planning authority decision to grant permission for the proposed development. No other appeal has been brought against that decision. Section 48(10)(c) provides that where no other appeal of the decision is brought, the planning authority shall make the grant of permission provided security for the full amount of the contribution is furnished by the appellant. In the absence of any other appeal under S.37, and having regard to the above provisions of the Act, this report is restricted to the consideration of Condition no. 14 of the Planning Authority's grant of planning permission only. In considering the appeal, I note that the Board is bound by the terms of the adopted Development Contribution Scheme and cannot deviate from same. The merits or appropriateness of any adopted Development Contribution Scheme is not open for interpretation by the Board as referenced in Cork City Council –v- An Bord Pleanala (2006). Rather, the Board is required to assess whether the terms of the scheme, as written, have been correctly applied.

- 10.3 The Board will note that there is no appeal in relation to application of the General Development Contribution Scheme, adopted by Cork City Council on the 14th October, 2013, condition 13 refers. The appeal relates solely to condition 14 and then, only the amount of the Special Development Contribution applied in relation to the specific exceptional costs which will be incurred in respect of upgrading the junction of St. Mary's Health Campus with Baker's Road, being public infrastructure and facilities which will benefit the proposed development. The actual inclusion of a condition requiring the payment of a Special Development Contribution is not contested. The First Party has, throughout the PAs assessment of the proposed development, indicated that the HSE is amenable to the inclusion of a condition in the grant of permission which would require the applicant to pay a proportionate Special Capital Contribution towards the improvement works to the public road infrastructure to be carried out by Cork City Council, including the signalised junction at the entrance to the campus from Baker's Road.
- 10.4 Condition 14 requires the payment of a Special Development Contribution with respect to *the specific exceptional costs which will be incurred in respect of upgrading the junction of St. Mary's Health Campus with Baker's Road, being public infrastructure and facilities which will benefit the proposed development*. The Planning Authority submits that the specified works are not provided for in the general Development Contribution Scheme and that the development will benefit directly from same. It is necessary that the Board satisfy itself that a special contribution is justified and in accordance with the Act in the first instance, before considering the amount of the contribution. Accordingly, it is essential that the nature and scope of the works and associated costs are specified in the condition and that the basis of the calculation is explained in the documentation provided by the planning authority.
- 10.5 I have considered the detail of the Development Contribution Scheme and I am satisfied that the detailed works here proposed, are not provided for within the General Development Contribution Scheme. Section 48(2)(c) provides that:

A Planning Authority may, in addition to the terms of a scheme, require the payment of a special contribution in respect of a particular development where specific exceptional costs not covered by a

scheme are incurred by any local authority in respect of public infrastructure and facilities which benefit the proposed development.

- 10.6 'Special' contribution requirements in respect of a particular development may be imposed under section 48(2)(c) of the Act where specific exceptional costs not covered by a 'general' scheme are incurred by a local authority in the provision of public infrastructure and facilities which benefit the proposed development. Because such a condition must be amenable to implementation under the terms of section 48(12) of the Act it is essential that: -
- (a) the nature / scope of works and the expenditure involved are specified in the condition, and
 - (b) the basis for the calculation, including how it is apportioned to the particular development, is explained in the planner's or other technical report on the application.

I am satisfied that the condition clearly specifies the nature and scope of the works. In addition, the Board will note the Planning Authority's submission in relation to the breakdown of the costs associated with the signalling of the junction of St. Mary's Health Campus with Baker's Road. In this regard, I am satisfied that the Planning Authority has adequately provided for the above specifics, and in that regard, the stated condition 14 is amenable to implementation under the terms of section 48(12) of the Act, and should be retained.

- 10.7 The principle of the condition is, therefore, acceptable. The First Party has submitted that pre-response to the request for further information by Cork City Council, a cost estimate was carried out by the Project Cost Consultant which showed a figure of approximately €40,000 for works in respect to improving the junction. The issue here is that no evidence to support this figure has been presented to the Board. On the other hand, the Planning Authority has provided a detailed breakdown of costs for the necessary works. The breakdown provides for all elements of the works, including the costs of consultants, engineer and VAT. I have no reason to doubt these costs and would therefore accept them as reasonable.
- 10.8 Condition 14 of the grant of planning permission requires the payment of €250,000, or essentially the full cost of the works, to be carried by the applicant. While I accept that the First Party has no objection in

principle to contributing to the overall cost of the works, the Board might consider whether it is reasonable that they should be liable for the full burden of costs. From the information submitted by the First Party in the course of the assessment of the development, the number of staff / patients / visitors to the campus will increase from 220 to 599 with the development of the Primary Care Centre. Proposed car parking provision is to increase from 241 spaces to 314 spaces. Certainly the development will increase the numbers of people using the site and I note that given the location of the site, a large number of users will walk to the site.

11.0 CONCLUSION & RECOMMENDATION

11.1 Conclusion:

Having regard to the nature of this appeal and the proposed development, and in accordance with section 48 of the Planning and Development Act, 2000, as amended by section 30 of the Planning and Development Act, 2010, I consider that, the terms of the Development Contribution Scheme for the area have been properly applied in respect of the proposed development. In terms of the amount of the Special Development Contribution required under condition number 14, the condition clearly specifies the nature and scope of the works and associated costs of works and explains the basis of the calculation in the documentation provided. In this regard, the imposition of condition 14 is in accordance with the requirements of section 48(12) of the Planning & Development Act 2000 - 2010.

11.2 Recommendation:

In the light of the above, I conclude that the terms of the Development Contribution Scheme for Cork City Council have been properly applied in respect of condition number 14. I therefore recommend that the Planning Authority be directed under subsection (13) of section 48 of the Planning and Development Act, 2000, as amended by section 30 of the Planning and Development Act, 2010 to attach condition no. 14 and the reasons therefore, for the Reasons and Considerations set out below.

DECISION

The Board, in accordance with section 48 of the Planning and Development Act, 2000, as amended by section 30 of the Planning and Development Act, 2010, considered, based on the reasons and considerations set out below, that the terms of the Development Contribution Scheme for Cork City Council had been properly applied in respect of condition number 14 and directs the said Council under subsection (13) of section 48 of the 2000 Act, to ATTACH condition number 14 and the reasons therefore.

REASONS AND CONSIDERATIONS

Having regard to the provisions of Section 48 of the Planning and Development Act, 2000, to the provisions of Cork City Council Development Contribution Scheme for Cork City Council, together with the information provided by the Planning Authority in relation to the calculation of the Special Development Contribution amount, the board considered that the planning authority has correctly interpreted the contribution scheme and that the imposition of condition 14 is in accordance with the requirements of section 48(12) of the Planning & Development Act 2000 - 2010.

A. Considine

Planning Inspector,
8th December, 2015