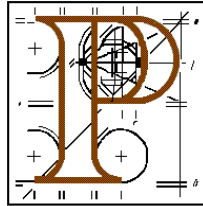


## An Bord Pleanála



### INSPECTOR'S REPORT

**DEVELOPMENT:** Demolition of TSB bank building and construction of new retail premises

**LOCATION:** Iona Road, Mayfield, Cork

#### PLANNING APPLICATION

**Planning Authority:** Cork City Council

**Planning Authority Reg. Ref.:** 15/36427

**Applicant:** Cormac O'Connor

**Type of Application:** Permission

**Planning Authority Decision:** Grant

#### PLANNING APPEAL

**Appellant:** Dan & Ann Murphy

**Type of Appeal:** Third Party

**Observers:** Betty Keating

**DATE OF SITE INSPECTION:** 7<sup>th</sup> January 2016

**INSPECTOR:** Mary Crowley

## 1.0 SITE LOCATION AND DESCRIPTION

- 1.1 The appeal site with a stated area of 0.141 ha comprises the former TSB bank building located at the corner of Colmcille Avenue and Murmount Close opposite Iona Park in the Cork suburb of Mayfield. The bank is currently vacant. The general area is characterised by detached dwellings with a designated Neighbourhood Centre immediately to the north. The site was previously in commercial use but is currently vacant and derelict.
- 1.2 A set of photographs of the site and its environs together with the applicants butcher shop at Boherboy Road, Mayfield taken during the course of the site inspection is attached. I would also refer the Board to the photos available to view on the appeal file.

## 2.0 PROPOSED DEVELOPMENT

- 2.1 This is an application for demolition of the former TSB bank building and construction of new retail premises including butcher shop, meat preparation area, store, office, delicatessen and restaurant together with all ancillary site works.
- 2.2 The existing floor area (former TSB Bank) to be demolished has a stated gross floor area of 365.68 sq.m. The proposed gross floor area of the new building is stated as 609.75 sq.m.
- 2.3 In response to a request for **further information** the applicant submitted the following:
- Revised site layout plan showing both pedestrian and vehicular access to the proposed development. It is confirmed that the layout has been designed and laid out in accordance with the principles of the DMURS. Two options enclosed in relation to the separation of pedestrian movement and vehicular movement. Submitted that the preferred option can be conditioned on the planning permission by the local authority.
  - Proposal for the provision of a new covered bicycle parking stand.
  - Submitted that the external lighting requirements for the development will be designed collectively with the public lighting requirements at locations indicated on site layout map.
  - Air conditioning unit and refrigeration unit will be located within the secure yard at the rear of the development
  - The operation hours will be from 7am in the morning until 8pm in the evening.

- Stated that there will be no hot food takeaway element to the café but that full takeaway dinners / rolls will be available for purchase in the café.
- The proposed office accommodation at first floor level is ancillary to the butcher / deli / café business at ground floor level
- Full landscaping scheme which pay particular attention to all boundaries provided

### 3.0 TECHNICAL REPORTS

3.1 **Cork City Council Drainage Division** (report x 2) has no objection subject to conditions. With regard to Appropriate Assessment (AA) the report notes that the relevant European sites are Cork Harbour SPA (site code 004030) and the Great Island Channel cSAC (site code 001058). The report states that AA is not required.

3.2 **Irish Water** has no stated objection to the scheme.

3.3 The **Transportation and Mobility Division** in their first report requested the following information as summarised:

- Revised details confirming that vehicular and pedestrian access details as well as internal road and footpath layout together with the intersection of Colmcille Avenue and Murmount Crescent have been designed and analysed in accordance with DMURS
- Revised internal parking layout showing a clear separation of pedestrian movements from any vehicular movements
- Provision of covered bicycle parking
- Public lighting requirements

3.4 The **Transportation and Mobility Division** in their second report and having considered the further information submission stated they had no objection to the proposed development subject to the following conditions:

- Internal parking layout for the proposed development shall be “Option 1”
- Provision of 10 car parking spaces, maximum
- 5% of total car parking spaces shall be allocated for disabled drivers i.e. 1 space
- Provision of one car parking space which is equipped with a functioning electrical vehicle (EV) charging point
- The provision of high quality covered cycle parking facilities for 6 bicycles
- All external lighting requirements shall be designed to optimise energy efficiency, incorporate glare control and agreed with Cork City Council in advance of any works commencing on site.
- A construction traffic management plan to be agreed

- 3.5 The **Environment Waste Management & Control Planning Report** has no objection to this proposed development subject to condition relating to construction impacts, construction noise, construction waste, waste management, waste oil and environmental protection as set out in the report.
- 3.6 The **Case Planner** in their first report requested the following further information as summarised:
- Revised details confirming that vehicular and pedestrian access details as well as internal road and footpath layout together with the intersection of Colmcille Avenue and Murmount Crescent have been designed and analysed in accordance with DMURS
  - Revised internal parking layout showing a clear separation of pedestrian movements from any vehicular movements
  - Provision of covered bicycle parking
  - Public lighting requirements
  - Details and location of any proposed plant including vents, air conditioning units, air extraction units to serve the proposed cold room, production area, chill stores etc
  - Proposals to minimise noise and odours from same
  - Hours of operation of the proposed shop deli and café
  - Confirmation that there will be no hot food takeaway element to the café
  - Confirmation that the proposed office accommodation at first floor level is ancillary to the butcher / deli / café business proposed at ground floor level
  - A proposed landscaping scheme for the site. Particular attention should be paid to providing landscaping on the southern boundary and the roadside boundary
- 3.7 The **Case Planner** in their second report and having considered the further information stated that *given the previous use of the site as a bank and its proximity to the local centre*, they are of the *opinion that it is reasonable to grant permission for the proposed use*. The report further states that the use as a butchers shop, café and deli are all local services type uses. The Case Planner recommended that planning permission be **granted** subject to conditions. The notification of decision to grant planning permission issued by Cork City Council reflects this recommendation.

#### 4.0 **OBJECTIONS / OBSERVATIONS TO THE PLANNING AUTHORITY**

- 4.1 There are three objections / observations recorded on the planning file from (1) David & Betty Keating, Des Moines, Iona Park, Mayfield who have been living in Mayfield for over sixty years and in that time the noted that the premises has changed from being a supermarket to a bank; (2) Coakley O'Neill Consultants on behalf of Dan & Ann Murphy, Hillcrest, Iona Park, Mayfield; (3) Donal & Carole McSweeney, Dun Ria, Iona Road, Mayfield. The issues raised in the submissions may be summarised as follows:

- **Scale** - The proposed development proposed is far too big for the area as it is well served with two butchers already operating in the area, a delicatessen in Super Valu and three fast food units. The scheme by reason of its nature and scale, materially contravenes Objective ZO10 and Objective 4.7(a) of the Cork City Development Plan 2015 – 2021 as it will undermine the vitality and viability of the adjacent designated Mayfield Local Centre.
- **Zoning** - The proposed development is not located in a designated retail centre. The range and scale of uses are more appropriate to a Neighbourhood Centre. Offices and office based industry are not generally permitted in a residential zone. The proposed development materially contravenes the residential, local services and institutions zoning objective ZO4 pertaining to the area.
- **Traffic Impact & Car Parking** – Increased traffic and shortage of proposed parking for customers, employees and deliveries and its impact on safety, noise and disruption over many hours per day per week. The proposed development constitutes overdevelopment of the site by reason of the deficit in on site car parking which will lead to traffic hazard. Having regard to Table 16.8 of the Cork City Development Plan 2015-2021 it is submitted that there is inadequate car parking provision
- **Landscaping** - All existing mature trees and landscaping are to be removed to facilitate the proposal and no landscaping structure or tree covering is proposed
- **Residential Amenities** - The proposed development also constitutes overdevelopment by reason of its impact on the adjacent residence. Business activities outside of core office hours and during unsocial hours causing noise and disruption for example from delivery / collection / employee vehicles and from onsite meat preparation and refrigeration
- **Anti-Social Behaviour** - There is potential for anti-social behaviour to arise from the long alleyway that will be created right next to the boundary with Dan & Ann Murphy's house.

## 5.0 PLANNING AUTHORITY DECISION

5.1 Cork City Council issued notification of decision to **GRANT** planning permission subject to 10 generally standard conditions summarised as follows:

**Condition No 1** Development shall be carried out in accordance with the plans, particulars and specifications lodged with the application on 29<sup>th</sup> May 2015 as amended by way of additional information on 25<sup>th</sup> September 2015

- Condition No 2** Car parking
- Condition No 3** Public lighting
- Condition No 4** Construction Traffic Management Plan to be submitted and agreed in consultation with An Garda Siochana
- Condition No 5** Take away element shall be strictly as described in the further information submission
- Condition No 6** Operational hours
- Condition No 7** Drainage
- Condition No 8** Construction works and management
- Condition No 9** Noise
- Condition No 10** Development Contribution

## 6.0 PLANNING HISTORY

6.1 There is no evidence of any previous planning appeal on this site. The following planning history was provided on in the appeal file:

**Reg Ref 04/28706** – Cork City Council granted planning permission to Irish Life & Permanent PLC for refurbishment works to the existing bank subject to 9 conditions.

6.2 The planning application was accompanied by a copy of the minutes of a **pre-application consultation** with Cork City Council where the following was recorded:

- Principle is acceptable in terms of the zoning objectives for the area
- Demolition needs to be justified
- Design is broadly acceptable

## 7.0 POLICY CONTEXT

7.1 The operative plan for the area is the **Cork City Council 2015-2021**. Map 3 Central Suburbs Zoning Objective identifies the site within an area zoned **Residential, Local Services and Institutional Uses** where the objective is *to protect and provide for residential uses, local services, institutional uses, and civic uses, having regard to employment policies outlined in Chapter 3 (Objective ZO4 refers)*. Development Management policies are set out in Chapter 16.

## 8.0 GROUNDS OF APPEAL

- 8.1 The **third party** appeal has been prepared and submitted by Coakley O'Neill Consultants on behalf of the appellants Dan & Ann Murphy, Hillcrest, Iona Park, Mayfield. The issues raised may be summarised as follows:
- 8.2 **Planning Assessment** - It is submitted that had the applicant and Cork City Council taken due cognisance of the appellants valid concerns as detailed in their submission to Cork City Council with respect to the nature and extent of the proposed development they would not have had to make this appeal.
- 8.3 **Zoning** - The proposed site is located in a mature residential area, and is zoned residential, local services and institutions. The provision and protection of residential uses and residential amenity is a central objective of this zoning. Further the proposed development will create an undesirable precedent in this instance, as the proposed development is contrary to the proper planning and sustainable development of the area.
- 8.4 **Neighbourhood Centre** – The scale of the development and its multiple uses (butchers, delicatessen, café and offices) at 609.75 sq.m, which is almost two thirds greater than the size of the existing building on site (365.6 sq.m) is more akin to a neighbourhood centre and its location outside a Local Centre will only serve to undermine the existing centre and to exacerbate the level of vacancy already occurring.
- 8.5 **Established Pattern** - Attention is drawn to the established pattern of development in the vicinity of the proposed development site with respect to distances of buildings from boundaries, the established building line and setting of buildings within individual plots. Submitted that these characteristics would ordinarily have informed the assessment of any proposals for development in such a residential area.
- 8.6 **Amenity** - Reference is made to the existing development and the proposed development as permitted and it is submitted that separations distances have been reduced with No 11 Iona Park. Natural light into the kitchen amenity space of No 11 will be directly affected by the proposed development by reason of its location closer to the southern boundary, its two storey height and the fact it is a taller structure relative to No 11.
- 8.7 **Operating Hours** - Submitted that despite the restriction on construction days, no such restriction applies to the operational days of the proposed development where, in effect, the proposed development could operate on a 7 day basis.
- 8.8 **Deliveries** - No information has been provided by the applicant as to the expected delivery hours, nor has any information been sought by Cork City Council.

Submitted, that in practice, there could be delivery vehicles arriving at the site from 6am. This is unacceptable in an established residential area.

- 8.9 **Noise** – Given the scale of the development it is inappropriate for the Council to require a noise assessment by condition as required by Condition No 9(c). This together with the exact details of the proposed extraction and air conditioning units should have been requested from the applicant prior to consent being given.
- 8.10 **Further Development Restrictions** – Given the sensitive nature of the site in this residential area, it would be incumbent on the Council to ensure that further development, such as plants, signs, canopies, awnings, external lighting, ventilation systems / extractor fans / apparatus was strictly controlled, yet no such restriction has been applied in this instance.
- 8.11 **Existing Vacancies** – No consideration has been made of the extent of vacancy in the existing Mayfield Local Centre. Submitted that there are better zoned sites within the existing local centre for a development of the nature and extent proposed.
- 8.12 **Intensification of Use** – The proposed development represents a significant intensification of use over the previous low intensity bank use on the site. In applying the relevant development contribution Cork City Council clearly agrees that the proposed development is in fact a significant intensification of use. However this conclusion as regards development contributions is not reflected in any other part of the planner's assessment.
- 8.13 **Car Parking** – It has been determined by the appellant in their original submission that 17no car parking spaces will be required to service the proposed development. However Condition No 2(b) of the grant of planning permission requires 10 no spaces on the basis that the site will benefit from patronage by foot and by bus. A deficit of over 40% in car parking spaces will only lead to on-street car parking and the creation of a traffic hazard.
- 8.14 **Traffic Impact** – There was a significant overspill of car parking related to the former bank (a much smaller development than that proposed) and the Local Centre parked on streets in the vicinity, which resulted in regular disruption for residents, particularly when the public bus was also trying to pass through. Despite the availability of alternative modes of transport, there is an existing problem with on street parking in the immediate area.
- 8.15 **Traffic Movements** – It is considered that the proposed development would generate excessive traffic movements at this location and would result in inadequate access arrangements, which would tend to create traffic congestion and would result in the obstruction of road users on the adjoining road network.



8.16 **Operations** - The appellant is not confident that the proposed development will not be operated in a way that respects the character of the residential area in which it is proposed based on *repeated dumping of waste and regular antisocial behaviour that takes place right next door* to the appellants property.

8.17 **Inadequate Information** – No traffic assessment has been provided. No assessment has been undertaken by sightlines on egress from the proposed development site, which are limited as a result of existing on-street car parking. No analysis has been undertaken as to the capacity of the site to accommodate delivery vehicles safely. This is particularly significant given the constrained nature of the site and the lack of information as regards delivery vehicles and times.

8.18 **Conclusion** – The proposed development is simply too large for this restricted site, with the effect being that the residential amenities of No 11 Iona Park are severely and detrimentally impacted, which contravenes zoning objective ZO 4 of the Cork City Development Plan 2015 – 2021.

## 9.0 RESPONSE OF THE PLANNING AUTHORITY TO THE APPEAL

9.1 Cork City Council states that they have no further comments to make.

## 10.0 OBSERVATIONS

10.1 There is one observation recorded on the appeal file from Betty Keating, Des Moines, Iona Park, Mayfield. The issues raised may be summarised as follows:

- Council did not take into account concerns highlighted in original submission
- Parking congestion already in the area
- Inadequate provision of car parking
- Queried how will deliveries be accommodated in such a congested area
- Operation hours and in particular early / late deliveries
- Noise
- The area is adequately served by major commercial centre close by
- Lose of residential amenity

## 11.0 FIRST PARTY RESPONSE TO THE APPEAL

11.1 The first party response to the appeal has been prepared and submitted by Gerald McCarthy Architects Limited on behalf of the applicant Cormac O'Connor and may be summarised as follows:

11.2 **Applicant** – The applicants butcher shop is currently in operation without difficulty 750m away from the appeal site on Boherboy Road, Mayfield, in a predominantly residential area. The development will be situated on a site zoned for local services.

The restaurant and office accommodation is ancillary to the butchers shop and will not be subdivided. It is considered imperative that the Boards Inspector visit the applicants butcher shop to get a sense of the scale of the business and particularly how it is being run in a manner which is non-interfering and amenable to the neighbouring residents.

- 11.3 **Kitchen & Natural Light** – In order to address the concerns of Dan & Ann Murphy in relation to natural light entering the kitchen window of their rented dwelling house a section of the 2-storey element of the building has been reduced down to single storey.
- 11.4 **Repeated dumping of waste and regular anti-social behaviour** – Immediately after purchasing the property the applicant secured the building with concrete block-work and Heras fencing. The applicant can confirm that since he has purchased the property and completed the security works the dumping and anti-social behaviour has ceased.
- 11.5 **Character of Residential Area** – The applicant has been in business locally for the last 25 years and has always been respectful of the residents and the residential area. Submitted that his business will continue to operate in this manner at the proposed development where he believes the residential amenities of the entire area will be enhanced.
- 11.6 **Established Pattern of the Area** – Submitted that proposed development as designed has respected the existing pattern of development in the area and the existing building line to the north east and north west. The rear single storey extension to the south west has been sensitively designed without interference to the neighbouring properties. Submitted that the revised design which has reduced the 2 storey element of the building has the added benefit of being even more sympathetic in design to the surrounding buildings and this should also alleviate the concerns expressed by Dan & Ann Murphy.
- 11.7 **Opening Hours** – The opening hours granted are 7am to 8pm and delivery hours will be between these hours. Submitted that the primary reason for requesting a 7am opening is to facilitate the applicants customers who wish to call before going to work as is happening at the shop on Boherboy Road. These opening hours have been granted to neighbouring retail outlets thus a precedent has been set.
- 11.8 **Noise Assessment – Plant, Signs, Canopies, Awnings, External Lighting, Ventilation Systems, Extractor Fans** – All of the above have been clearly designed specified and set out on the planning application along with the further information submission. The local authority has reinforced this through Condition No 1, 3, 8 and 9. The plant is located in the secure yard to the rear which is enclosed by 2.2m high concrete wall which will act as a noise buffer.

- 11.9 **Overspill & Car Parking** – The site is located immediately adjacent to the “local centre” on a primary bus route. The majority of the applicants customers will travel by foot, bicycle or bus. The applicant has direct experience of this in his existing business where car parking is limited but which does not create a traffic hazard. Reference is made to the “New Smarter Travel Policy 2009 – 2010” produced by the Department of Transport. Further the proposed design incorporates a high standard bicycle park along with pedestrian priority routes.
- 11.10 **Transportation & Entrance** – The proposed development is accessed through the existing entrance. Sight distances in either direction comply with the minimum requirements and the Transportation Division has not expressed any concern in relation to this aspect. The applicant submits that from his direct experience of his existing business on Boherboy Road that car-parking will be more than adequate for the service he is providing.
- 11.11 **Scale of Development** – The revised design to accommodate the natural light to the neighbouring property has substantially reduced the scale of the building – 46.98 sq.m will be reduced off the first floor. The design is sympathetic to the surrounding area and the layout respects the established building lines.
- 11.12 **Conclusion** – The proposal will result in an existing unsightly derelict building being demolished, a new well designed building being constructed which will offer a valuable service to the local centre / area. The proposals will improve the residential and visual amenities of the junction and the surrounding area. The applicant has compromised on the permitted design to eliminate any negative impact the building many have had on Dan & Ann Murphy’s building or their tenants. The Board is asked to permit the revised design by condition and to otherwise uphold Cork City Councils grant of planning permission.
- 11.13 **NOTE** – The submission was accompanied by revised layout plans, elevations / sections and cross sections together with contextual street elevations and a site location map.

## 12.0 SECTION 131 RESPONSES

- 12.1 The First Party response to the appeal was cross circulated to relevant parties. The following submissions / observations were received:
- 12.2 **Cork City Council** states that they have no further comments to make.
- 12.3 Coakley O’Neill Consultants on behalf of **Dan & Ann Murphy**, Hillcrest, Iona Park, Mayfield submitted that the following as summarised:

- The proposed design change is acknowledged however the proposed development remains excessive and constitutes overdevelopment of a restricted site. Noted that no revised floorplans have been provided to determine where the first floor male locker and canteen are to be relocated.
- A more appropriately-scaled butchers with ancillary café, deli and first floor office space within the footprint of the existing building would be a more satisfactory for the proposed development site that what is put forward by the applicant.
- A development that is similar in nature and extent to the existing butchers shop operated by the applicant on Boherboy Road, Mayfield, as so carefully referenced in the applicant's response, would be more appropriate.
- There is no explanation provided by the applicant as to the need for the excessive space proposed relative to the existing operation on Boherboy Road, Mayfield. This expanded meat production area, coupled with the proposed opening and delivery hours, would suggest that the proposed development is more than just a local service, but in fact, is of a commercial / light industrial nature, with a separate and distinct meat production facility operating to the rear which will serve a much wider area and a more varied customer base than the locality in Iona Road. This is unacceptable in a residential area. It is asked that the Board note that the applicant has a fleet of trucks at his disposal.
- The rubbish and rubble on the proposed development site has arisen for the most part since May 2015. The appellant's house is not rented. The applicant's existing premises on Boherboy Road, Mayfield is in fact adjacent to the applicant's own house.

## **13.0 ASSESSMENT**

- 13.1 Concerns raised regarding the Planning Authority assessment of the scheme are noted. However the development proposed is considered "de novo". That is to say that the Board considers the proposal having regard to the same planning matters to which a planning authority is required to have regard when making a decision on a planning application in the first instance and this includes consideration of all submissions and inter departmental reports on file together with the relevant development plan and statutory guidelines, any revised details accompanying appeal submissions and any relevant planning history relating to the application.
- 13.2 Having regard to the information presented by the parties to the appeal and in the course of the planning application and my site inspection of the appeal site and the applicant's butcher shop at Boherboy Road, Mayfield, I consider the key planning issues relating to the assessment of the appeal can be addressed under the following general headings:

- Principle / Policy Considerations
- Traffic Impact
- Car Parking
- Residential Amenity
- Other Issues

## **14.0 PRINCIPLE / POLICY CONSIDERATIONS**

14.1 Under the provisions of the Cork City Development Plan 2015 - 2021 the appeal site is wholly contained within an area zoned Residential, Local Services and Institutional Uses where the objective *is to protect and provide for residential uses, local services, institutional uses, and civic uses, having regard to employment policies outlined in Chapter 3* (Objective ZO4 refers). Uses, including small scale local services, institutional uses and civic uses and provision of public infrastructure and utilities are permitted, provided they do not detract from residential amenity and do not conflict with the employment use policies in Chapter 3 and related zoning objectives. Further Class 14 of Part 1 of Schedule 2 of the Planning and Development Regulations 2001, as amended provides that where development comprising the change of use from financial services to use as a shop is exempted development.

14.2 I have noted the appellants appeal to the Board and their detailed submission to the Cork City Council. However in this instance it remains that the previous use of the site was that a bank premises. Having regard to this previous use, the nature and scale of the proposed scheme together with the sites proximity to a zoned local centre immediately to the north I would agree with the planning authority that the proposed land use is acceptable in principle subject to the acceptance or otherwise of site specifics / other policies within the development plan and government guidance.

## **15.0 TRAFFIC IMPACT**

15.1 As pointed out by the Transportation and Mobility Division the proposed development is located at the intersection of Colmcille Avenue and Murmount Crescent. Colmcille Avenue us a busy distributor route for through traffic heading to / from the R635 North Ring Road from Old Youghal Road. The proposed development is also located on a key Green Route which provides access to a high quality bus service (208). The proposed access to the development is via the existing priority junction with Colmcille Avenue. It is further stated that the proposed development is also located within a busy residential community where local

services such as the local district centre, schools, sports centres, library and supermarket are all in close proximity. Many trips are therefore undertaken by foot and therefore the wider pedestrian connectivity of the general area is important.

15.2 The Transportation and Mobility Division noted that the proposed development is accessible by foot as well as from a high quality bus service (208) and that it is likely, therefore that a number of staff and shoppers will travel to and from the proposed development in this way.

15.3 With regard to traffic impact I would make the following comments. Having regard to the proposed car park proposal together with the scale and nature of the scheme I am satisfied that the vehicular movements generated by the development would not have a significant material impact on the existing car parking facilities or the current capacity of the road network in the vicinity of the area or conflict with traffic movements in the immediate area of the site, particularly taking into account the location and scale of the development. Accordingly I am satisfied that the proposed development would function satisfactorily from a traffic and car parking point of view.

## 16.1 CAR PARKING

16.1 As noted in the Transportation and Mobility Division report twelve parking spaces (12) were shown within the original proposed development. However concern was raised that the parking layout was poor and that there was no provision for disabled parking. In response to a request for further information the applicant submitted a revised site layout plan showing both pedestrian and vehicular access to the proposed development and confirmed that the layout has been designed and laid out in accordance with the principles of the DMURS. The applicant provided two options in relation to the separation of pedestrian movement and vehicular movement and requested that the preferred option be conditioned.

16.2 The Transportation and Mobility Division in their second report and having considered the further information submission recommended that the internal parking layout for the proposed development shall be "Option 1" as submitted, the provision of 10 car parking spaces, maximum with one space allocated for disabled drivers together with the provision of one car parking space which is equipped with a functioning electrical vehicle (EV) charging point. I support the Planning Authority's the approach and recommended that should the Board be minded to grant permission that a condition be attached requiring compliance with the Option 1.

## 17.0 RESIDENTIAL AMENITY

17.1 Concern is raised throughout the appeal that natural light into the kitchen amenity space of No 11 Iona Park will be directly affected by the proposed development by reason of its location closer to the southern boundary, its two storey height and the

act it is a taller structure relative to No 11 Iona Park. Further concern is raised with regard to delivery hours and that the permitted hours of operation are excessive in a residential area.

- 17.2 In response to the concern raised in relation to natural light entering the kitchen window of the adjoining property a section of the 2-storey element of the building down to single storey was submitted with the first parties response to the appeal. As pointed out by the applicant that the opening hours granted are 7am to 8pm and it is stated that the delivery hours will be between the hours of 7am and 8pm. It is further stated that the primary reason for requesting a 7am opening is to facilitate the applicants customers who wish to call before going to work as is happening at the applicants shop in Boherboy Road.
- 17.3 As set out previously the site is located in an area zoned Residential, Local Services and Institutional Uses where the provision and protection of residential uses and residential amenity is a central objective of this zoning. I am satisfied that having regard to the existing commercial use of the site, that amended design details the nature of the scheme that the proposed development will not have an adverse impact on adjoining residential amenities.

## **18.0 OTHER ISSUES**

- 18.1 **Development Restrictions** – I note the concerns raised that further development, such as plants, signs, canopies, awnings, external lighting, ventilation systems / extractor fans / apparatus was strictly controlled. I consider the concerns raised to be valid and recommend that should the Board be minded to grant permission that a condition(s) be attached restricting such development.
- 18.2 I also note the concern that having regard to the expanded meat production area, coupled with the proposed opening and delivery hours, that the proposed development may be more than just a local service, and may be of a commercial / light industrial nature, which would serve a much wider area and a more varied customer base than the locality in Iona Road. In this regard I am satisfied that a condition requiring the development 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 to the Planning Authority and received by An Bord Pleanála would address this matter. I would add that under planning legislation any development which requires permission and does not have permission is unauthorised development, as is a development which is proceeding in breach of conditions laid down in the planning permission. Accordingly any unauthorised development is therefore a matter for the Plannign Authority. Further any future development proposals associated with the scheme will be subject to a separate planning application and will be considered on its own merits. Any such application will be subject to the full rigours of the planning process

- 18.3 **Revised Plans** – As pointed out by the appellant no revised floorplans have been provided with the amended plans submitted with the first party response to the appeal. Having regard to the original plan it would appear that the proposed reduction in the two storey element of the scheme will result in the omission of the proposed canteen area and associated staff lockers. I am satisfied that a revised first floor layout plan incorporating a canteen and locker are can be dealt with by way of condition where by the applicant is requested to submit said details for agreement prior to commencement of work on site.
- 18.4 **Drainage Services** - The development will be served by the existing connection to the public water mains and the public sewer. Water disposal will be by means of the public sewer / drain. The proposed arrangements are considered acceptable subject to compliance with the requirements of Irish Water and the planning authority.
- 18.5 **Construction Impact & Methods** – It is evident from the proposed scheme that extensive demolition and construction works are required to accommodate the proposed scheme. In line with the report of Cork City Council Transportation and Mobility Division it is recommended that should the Board be mindful to grant permission that a construction management plan should be submitted prior to commencement of development, in order to address construction management concerns. With the implementation of such a condition I do not consider that the construction phase of the development would give rise to an unreasonable impact on neighbouring properties in this instance.
- 18.6 **Appropriate Assessment** – I refer to the report of the Area Engineer. Having regard to the nature and scale of the proposed development, nature of the receiving environment and proximity to the nearest European site Cork Harbour SPA (site code 004030) and the Great Island Channel cSAC (site code 001058), no appropriate assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.
- 18.7 **Development Contributions** – Cork City Council has adopted a Development Contribution scheme under **Section 48** of the Planning and Development Act 2000 (as amended) and is in place since 14<sup>th</sup> October 2013. The proposed development does not fall under the exemptions listed in the scheme (Section 1.7; Table 5 refers). It is therefore recommended that should the Board be minded to grant permission that a suitably worded condition be attached requiring the payment of a Section 48 Development Contribution in accordance with the Planning and Development Act 2000.
- 18.8 In relation to the **Section 49** Supplementary Development Contribution Schemes (re-opening of an operation of suburban rail services on the Cork to Middleton line;



provision of new rail services between Blarney and Cork and the upgrading of rolling stock and frequency on the Cobh rail line as demand increases) it is noted that the subject site may be located marginally within the catchment area of these projects (1km corridor) and therefore the Section 49 scheme may be applicable in this case. However it is noted that a Section 49 condition was not applied by Cork City Council in their notification of decision to grant permission. According the Board may wish to seek clarification on this matter prior to making its decision.

## **19.0 RECOMMENDATION**

19.1 Based on the above assessment I recommend that permission be granted for the proposed development for the reason and considerations set out below.

## **20.0 REASONS AND CONSIDERATIONS**

20.0 Having regard to the nature, scale and design of the proposed development, to the planning history of the lands, to the general zoning objective for the site as set out in the current Development Plan for the area and to the character of the general area, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential or visual amenities of the area or of property in the vicinity, would respect the existing character of the area and would be acceptable in terms of traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## **21.0 CONDITIONS**

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application on 29<sup>th</sup> May 2015 as amended by the further plans and particulars submitted to the Planning Authority on 25<sup>th</sup> September 2015 and by the further plans and particulars received by An Bord Pleanála on the 11<sup>th</sup> December 2015, except as may otherwise be required in order to comply with the following conditions. Where such conditions require points of detail to be agreed with the planning authority, these matters shall be the subject of written agreement and shall be implemented in accordance with the agreed particulars.

**Reason:** In the interest of clarity.

2. Prior to commencement of work on site revised first floor plans shall be submitted for agreement incorporating the proposed staff canteen and associated staff locker area.

**Reason:** In the interest of clarity.

3. The proposed shopfront shall be in accordance with the following requirements:-
- (a) Signs shall be restricted to a single fascia sign using sign writing or comprising either hand-painted lettering or individually mounted lettering,
  - (b) lighting shall be by means of concealed neon tubing or by rear illumination,
  - (c) no awnings, canopies or projecting signs or other signs shall be erected on the premises without a prior grant of planning permission,
  - (d) external roller shutter shall not be erected and any internal shutter shall be only of the perforated type, coloured to match the shop front colour
  - (e) no adhesive material shall be affixed to the windows or the shopfront.

**Reason:** In the interest of visual amenity.

4. (a) The hours of operation shall be between 07.00 hours and 20.00 hours.
- (b) No deliveries shall be taken at or dispatched from the premises outside the hours of 07.00 and 20.00 Monday to Saturdays, nor at any time on Sundays or public holidays.

**Reason:** To protect the residential amenities of the area.

5. Water supply and drainage arrangements, including the 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.

6. Details of the materials, colours and textures of all the external finishes to the proposed development shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interest of visual amenity.

7. (a) Parking for the development shall be provided in accordance with Option 1 as submitted by way of further information on 25<sup>th</sup> September 2015 with the provision of 10 car parking spaces, maximum and with 5% of total car parking spaces shall be allocated for disabled drivers i.e. 1 space.

(b) One car parking space which is equipped with a functioning electrical vehicle (EV) charging point as well as the provision of ducting to allow for the future fit out of an electric vehicle charge point for at least 10% of the car spaces shall be provided on site. All electrical vehicles charging infrastructure shall be in accordance with Cork City Council's detailed standards for Electrical Vehicle Charging Infrastructure.

**Reason:** To ensure a satisfactory parking layout in the interests of pedestrian and traffic safety and of visual amenity.

8. Six no. covered bicycle parking spaces shall be provided within the site in accordance with the requirements of the Cork City Development Plan 2015 – 2021.

**Reason:** To ensure that adequate bicycle parking provision is available to serve the proposed development, in the interests of sustainable transportation.

9. Footpaths shall be dished at road junctions in accordance with the requirements of the planning authority. Details of the locations and materials to be used in such dishing shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interest of pedestrian safety

10. Any damage caused by construction traffic during development works shall be repaired, with the agreement of Cork County Council, to the satisfaction of the Planning Authority.

**Reason:** In the interests of road safety and proper planning.

11. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development.

**Reason:** In the interest of visual and residential amenity.

12. 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 interests of sustainable waste management.

13. Public lighting shall be provided in accordance with a scheme, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Such lighting shall be provided prior to the making available for occupation of any house.

**Reason:** In the interests of amenity and public safety.

14. Site development and building works shall be carried only out between the hours of 08.00 to 19.00 Mondays to Fridays inclusive, between 08.00 to 14.00 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 residential amenities of property in the vicinity.

15. 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. The contribution shall be paid prior to the 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 the Board to determine the proper application of the terms of the Scheme.

**Reason:** It is a requirement of the Planning and Development Act 2000 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.

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**Mary Crowley**  
**Senior Planning Inspector**  
**8<sup>th</sup> March 2016**