



An
Bord
Pleanála

Inspector's Report PL.28.248613

Development	Change of use of 19 apartments to 63 guest rooms at hotel with gym and admin offices, hotel extension, window enlargement and associated site works
Location	The Kingsley Hotel, Carrigrohane, Co. Cork.
Planning Authority	Cork City Council
Planning Authority Reg. Ref.	17/37328
Applicant(s)	Xiu Lan Hotels
Type of Application	Permission
Planning Authority Decision	Grant
Type of Appeal	Third Party
Appellant(s)	John Keane
Observer(s)	None
Date of Site Inspection	26 th September 2017
Inspector	Kenneth Moloney

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1.0 Site Location and Description

- 1.1. The appeal site is located on the western outskirts of the Cork city centre adjacent to the River Lee. The appeal site takes its access off the Carrigrohane Road.
- 1.2. There is an established hotel, 'Kingsley Hotel', on the appeal site and the layout of the hotel is U-shaped. There is a separate guest apartment block situated adjacent to the western boundary of the appeal site and this separate block forms part of the hotel.
- 1.3. There is a public park located to the immediate west of the appeal site and this park, i.e. the Lee Fields, forms part of the flood plain for the River Lee.
- 1.4. There is surface car parking located to the immediate east of the appeal site.
- 1.5. On the opposite side of the Carrigrohane Road from the appeal site is the County Library and County Hall.

2.0 Proposed Development

- 2.1. The proposed development is for the following;
 - Provision of an additional 63 no. guest rooms.
 - Change of use of 19 no. 2 bedroom apartments and existing hotel gym to guest rooms, administration offices and meeting rooms.
 - Change of use of existing parking garages to gym
 - Single storey extension to southern elevation.
 - Construction of first floor walkway
 - Alterations to elevations
 - Enlargement of existing windows to southern elevation
 - Modifications to existing wall and railings
 - New landscaping to entrance and gym courtyard

3.0 Planning Authority Decision

3.1. Cork City Council decided to **grant** planning permission subject to 21 conditions.

3.2. Planning Authority Reports

3.2.1. The main issues raised in the planner's report and the SEP's report are as follows;

Area Planner

- It is considered that the principle of the proposed development is acceptable given the established use.
- There are no residential properties in the immediate vicinity of the appeal site.
- There are residential properties across the river but located a considerable distance from the appeal site.
- Subject to a noise report it is not considered that the proposed development will impact negatively on established residential amenities.
- It is considered that the proposed building height is acceptable having regard to established and permitted heights in the immediate area.
- The proposal would not adversely impact on the protected view.
- The proposed corner feature should be reduced in height.
- The 'Kingsley' signage on the western and southern elevation should be reduced in size, with a condition stating that the lettering not be internally illuminated.
- Traffic requirements in relation to pedestrian and vehicular access.
- The flood risk assessment is considered acceptable.

3.2.2. Environment; - No objection subject to conditions.

3.2.3. Drainage; - No objection.

- 3.2.4. Transport and Mobility Report; -. Car parking is in accordance with City Development Plan standards, however 5% of overall parking supply should be disabled parking spaces. Revised pedestrian and vehicular access arrangement required. Overall no objections.
- 3.2.5. Road Design; No objections.
- 3.2.6. Observations: There is a submission from Irish Water who have no objections to the proposed development.

3.3. **Third Party Observations**

There is one third party objection and the issues raised have been noted and considered.

4.0 **Planning History**

10-Year Planning History

- L.A. Ref. 16/36656 – Permission **granted** to erect signage at Kingsley Hotel comprising of (a) freestanding totem sign on the southern boundary and (b) individual raised letters and symbols fixed to the eastern elevation.

5.0 **Policy Context**

5.1. **Development Plan**

Cork City Development Plan, 2015 – 2021, is the operational Development Plan.

The site is zoned '*ZO4-Residential, Local Services and Institutional Uses*'. The objective of this land-use is '*to protect and provide for residential uses, local services, institutional uses, and civic uses, having regard to the employment policies outlined in Chapter 3*'.

Chapter 8

Policy Objective 8.11 (a) 'Visitor Accommodation' states to encourage a broader range of visitor accommodation in the City and the expansion of the City's hotel base.

Chapter 10

In accordance with Figure 10.2 'Conceptual Landscape Structure Plan' the appeal site is located within a designated 'gateway' and along a 'key approach road'.

There are several protected views near the appeal site and these include;

- AR2 – View along Carrigrohane Road to County Hall
- RP2 – View of Holy Trinity & St. Nicholas Church from north city
- RP10 – View of County Hall from north city
- RP11 – View of County Hall from north city

Paragraphs 10.22 – 10.31 defines the protected views and Policy Objective 10.6 is relevant.

6.0 Appeal

6.1. The following is the summary of a third-party appeal submitted by John Keane;

- Condition 12(d) does not require the applicant to submit proposals prior to the commencement of development or details of how the storage space will be vented.
- Cork City Council did not invite the applicant to make detailed proposals on the storage space and as such third parties are omitted from the process.

- It is requested that An Bord Pleanála should require the applicant to submit detailed proposals of the storage space and allow the appellant comment.
- It is submitted that condition no. 16(a) is unambiguous and does not require the developer to submit details of how they intend to comply with this condition.
- The appellants home is situated approximately 200m from the proposed development.
- It is submitted that An Bord Pleanála should require the applicant to submit a detailed plan of how they intend to comply with this condition using as a guide the HAS General Application Regulations, 2007, Chapter 1 of Part 5: Control of Noise at Work.
- The developer needs to detail how they intend to baseline existing audible tonal or impulsive noise including location points of readings. Details of the specialised equipment required for the noise recordings is also required.
- In relation to condition no. 16(b) it is contended that the issue in relation to the relocation of the combined heat and power plant has not been addressed.
- It is submitted that An Bord Pleanála should seek clarification from the applicant about the locations and use of all plant and equipment, including the relocation and use of existing plant, compliance with FGas Regulations etc.
- Details to address audible tonal and impulsive noise are required.
- The applicant is also requested to clarify how sound proofing will address rotating plant and equipment that can emit tonal or impulsive noise.
- An Bord Pleanála should request the applicant to clarify whether equipment can be turned off during hours of darkness in the interest of protecting residential amenity.
- It is submitted that additional plant, equipment and extracts have been installed on the eastern elevation. See photographs 1, 2, and 3. These items are visible from the public roadway.

7.0 Responses

The **local authority** submitted a response stating that they had no further comments.

The following is the summary of a response submission submitted by the **applicant's agent**;

Introduction

- It is acknowledged that the appellant has no objection in principle to the proposed development only raising concerns about its proper implementation.
- It is considered that the Cork City Council concluded that proposed development appropriate in that the residential and visual amenities of the area would not be injured.

Waste Storage Space

- Condition no. 12 relates to the storage of waste.
- Currently waste is stored in a dedicated space adjacent to the kitchen.
- The storage of waste is in full compliance with the requirements of the EHO.
- It is contended that the proposed development will not generate any additional waste storage requirements for 63 bedrooms due to the nature of the occupancy which will generate less waste than the 19 no. units currently in place.

Noise

- In terms of noise complaints, the appellant's property is more than 200m from the main body of the hotel and some 250m from the existing structure which is the subject of the application.
- The appellant has raised similar concerns with the hotel in the past (mid 2016).

- A noise assessment was undertaken to address concerns.
- The acoustic consultant was selected by the appellant and a noise assessment was carried out in October 2016. (A copy of the report is attached to the appeal submission).
- The report indicates that the noise assessment was carried out on the night of 21st October 2016. The findings concluded that the measured results were below the WHO recommendations.
- The report noted that the dominant noise sources were public roads, the adjacent river and its weir and overflying aircraft. The hotel is located on a flightpath for Cork airport.
- It is submitted that no significant plant is required to service the new bedrooms and the relocated gym.
- The plant will consist primarily of ventilation cassettes on the roof of the existing apartment building.
- The submitted drawings 927.PL.119 (roof plan) and 927.PL.123 (Section CC & DD) submitted with the planning documentation demonstrate the proposed area reserved for these units.
- Any plant equipment will be located behind the stairwell, lift shaft and a 1.9m high parapet. This will provide screening and mitigate any potential noise impacts.
- It is submitted that no new works are proposed to the existing roofscape and plant areas of the hotel.
- The proposed design includes measures to reduce the impact of the proposal on the surroundings.
- It is concluded that the existing building and the proposed development will not injure the residential amenity of the surroundings.
- It is stated that should the appellant consider that condition no. 16 has been breached then he can request Cork City Council confirm that the requirements of the condition are being complied with.

Alleged unauthorised developments

- It is submitted that issues in relation unauthorised development referred to by the appellant can be addressed by enforcement action

8.0 **Assessment**

- Principle of Development
- Impact on Established Amenities
- Condition 12(d)
- Condition 16(a)
- Condition 16(b)
- Flood Risk
- Appropriate Assessment
- Other issues

8.1. Principle of Development

The site is zoned 'ZO4-Residential, Local Services and Institutional Uses'. The objective of this land-use is '*to protect and provide for residential uses, local services, institutional uses, and civic uses, having regard to the employment policies outlined in Chapter 3*'. There is an established use on the appeal site and the proposed development represents an extension to this established use.

In concluding whether the principle of development is acceptable to the appeal site I would consider having regard to the zoning objective, the established uses on the appeal site and the immediate area, that subject to protecting established residential uses that an extension to the established use is acceptable in principle.

8.2. Impact on Established Amenities

It is notable that the proposed development is in a sensitive area from a landscape and visual perspective. The Cork City Development Plan, 2015 – 2021, has designated Carrigrohane Road as a 'visual approach road' to the city centre, however given the established context which includes tall buildings on the opposite side of the public road from the appeal site, i.e. County Hall and the County Library, the proposed additional storey is generally consistent with the character of the area. Also, the proposed 5-storey building faces onto a public park and the River Lee and overall I would consider that the site could accommodate an additional storey given its context both natural and built.

There are also protected views over the appeal site towards the County Hall from the north city. The additional single storey extension will not impact on these protected views. Overall I would conclude that the given the location of the appeal site that the proposed development will not unduly impact on established visual amenities in the local area.

In relation to noise the appellant submits that the applicant should be required to submit justification which would demonstrate that leaving equipment on all night, particularly after hours of darkness will not injure established residential amenities.

The applicant's response submission included a report from an acoustic consultant. The noise report includes a noise survey which was carried out in October 2016. The noise monitoring survey was conducted at the appellant's property. I note the values recorded in Table 3.1 of the submitted noise report and I would consider L90 dB (A) a relevant recording as it accounts for noise values over a continuous period for 90% of the time. The indoor noise recordings are not significant in terms of anticipated impacts however the noise recording value on the balcony / terrace is 47 dB (A). Although 47 dB (A) is relatively high it is below the maximum required noise value in condition no. 16 of the local authority permission. It is also notable in the noise assessors report that the dominant noise sources as observed from the appellant's property was the adjacent road traffic and river flow. It is unclear from the submitted

noise assessment as to the level of noise from the hotel alone however it is likely, as is evident from the noise report submitted with the application that any audible hotel noise is subordinate noise in the overall noise affecting the appellant's property.

I note the noise assessment in relation to low frequency noise and based on a one-third octave band analysis it is concluded that the tonal changes in the noise recordings are not significant. This is also important as it essentially dismisses any likely tonal impacts which can have a serious negative impact on residential amenities.

I would consider that the overall noise assessment demonstrates that noise from the hotel is not a significant factor on the appellant's established amenities. I would consider that subject to compliance with conditions that noise emanating from the hotel would not seriously injure established residential amenities.

8.3. Condition no. 12 (d)

The appellant argues that this condition, which requires '*vented waste storage space of sufficient capacity*', does not require the developer to seek approval from Cork City Council when complying with this condition. The appellant also claims that there is no opportunity for a member of the public to comment on any submitted or revised plans that would comply with this condition.

In terms of seeking approval from the local authority I would consider this is a reasonable requirement of the condition. Accordingly, I would recommend to the Board that the wording of the condition is revised and shall require approval from the local authority. However, it is not standard practice to allow third parties comment on compliance issues but should a redesign depart from the remit of the planning permission then it may be considered a material change to the planning permission which would require a subsequent planning application to regularise.

8.4. Condition no. 16 (a)

This is a noise condition which requires that the operational noise shall not give rise to noise 55 dB(A) Leg, 15 minutes during the hours of 08:00 – 22:00 and 45 dB (A) Leg 15 minutes during the hours of 2200 – 0800. This noise condition is generally standard however the appellant submits that the condition would be impossible to enforce as there is no requirement for the developer to comply with the said condition. I would consider, given the wording of condition no. 16 (a) that the appellant's argument is reasonable.

I would recommend to the Board that in the interest of compliance and protecting residential amenities that the wording of the condition is revised such that noise levels shall be measured at noise monitoring locations and that monitoring results shall be submitted to the Planning Authority on a 6-monthly basis. This will ensure that there is proper compliance with the noise condition.

8.5. Condition no. 16 (b)

The appellant essentially argues in his appeal that this condition is not comprehensive as it does not adequately cover all plant associated with the existing building. The appellant is also concerned that the condition does not adequately address potential audible tonal and impulsive noise through sound proof enclosures.

In relation to the first concern I would consider that this can be addressed by a revised wording to the condition to include all on-site plant and machinery. In relation to the second part of the of the concern I would consider that this issue would be addressed in condition 16 (a) above. However, I would recommend to the Board that the wording of the condition is revised to ensure that the condition covers both tonal and impulsive noise impacts.

8.6. Flood Risk

The appeal site is located within Flood Zone A and therefore would have a high risk of flooding. The planning application included a Flood Risk Assessment.

I would note from the documentation on the file that there was a significant flood event adjacent to the appeal site in 2009. In this flood event the vicinity of the hotel site was flooded and the hotel site experienced flood levels of 300-400mm above ground level. The main risk of flooding is fluvial flooding given the proximity to the River Lee and the River Curagheen which lies 80m south of the appeal site. The maximum flood level predicted for 1% AEP is 4.78m OD for the River Lee and 5.18m OD for the River Curragheen. The hotel finished floor level is 5.2m OD.

A flood relief scheme is proposed for Cork City and importantly, given the current application, the flood relief scheme proposes flood defence along the River Lee and the isolation of the south channel and the Curraheen River from the north channel in times of floods.

The proposed flood relief scheme which is due to commence in early 2018 provides protection for the hotel site up to 5.85m OD in the form of a new flood wall to the north and east of the hotel and to the west by providing a new flood embankment to a level of 6.05m. I would also note that it is the intention of the applicant to sign up to Cork City Council's Flood Warning System which will facilitate an early emergency response should it be necessary. I would also note that the report from the Drainage Division, dated 25th April 2017, outlines that they have no objection to the proposed development.

Overall I would consider that having regard to the proposed flood relief scheme and the established use on the appeal site that it has been adequately demonstrated by the submitted flood risk assessment that any concerns in relation to flood risk have been addressed.

8.7. Appropriate Assessment

Having regard to the nature and scale of the development proposed and to the nature of the receiving environment, namely an inner city and fully serviced location, no appropriate assessment issues arise.

8.8. Other Issues

The local authority considered the design of the proposed development and concluded that the proposed corner feature, i.e. the grey cement board cladding, should be reduced in size and the 'Kingsley' signage on the western and southern elevations should be reduced in size also. I would concur with this conclusion, based on a visual assessment of the local area and the submitted drawings. I would recommend a similar condition to the board, should they favour granting permission.

The appellant raises several issues claiming that the applicant has not complied with previous permissions or indeed the conditions of these permissions. I would consider that these issues raised are generally enforcement issues, in accordance with Part VIII of the Planning and Development Act, 2000, and would be outside the scope of this appeal which relates to items listed in Section 2.0 of the report above. I would therefore consider that it is a matter to be raised with the local authority rather than An Bord Pleanala.

9.0 **Recommendation**

9.1. I have read the submissions on the file, visited the site, had due regard to the City Development Plan, and all other matters arising. I recommend that planning permission be granted for the reasons set out below.

10.0 **Reasons and Considerations**

Having regard to the zoning objectives of the current Development Plan for the area and to the overall scale, design and height of the proposal, it is considered that subject to compliance with the conditions set out below that the proposed development would not seriously injure the amenities in the area, and would

therefore be in accordance with the proper planning and sustainable development of the area.

CONDITIONS

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. The proposed development shall be modified as follows:
 - a. Revised southern and western elevations reducing the size and scale of the cement board cladding at the south-western corner of the western block, so that it is not higher than the top of the third floor (below the line of the balconies at fourth floor level).
 - b. The signage located on the cladding at this point shall be reduced in height and size in line with this reduction.

Revised drawings showing compliance with the above requirement shall be submitted to the planning authority for written agreement prior to the commencement of development.

Reason: In the interest of protecting the character of the area and visual amenity.

3. The use of internally illuminated lettering shall not be permitted.

Reason: In the interest of visual amenity.

4. No additional signs, symbols, nameplates or advertisements shall be erected on the proposed site without a prior approval of the planning authority whether or not such development would otherwise constitute exempted development.

Reason: In the interest of visual amenity.

5. Prior to commencement of development, details of the materials, colours and textures of all the external finishes to the proposed development shall be submitted to the planning authority for agreement.

Reason: In the interest of orderly development and the visual amenities of the area.

6. That all necessary measures be taken by the contractor to prevent spillage or deposit of clay, rubble or other debris on adjoining roads during the course of the works.

Reason: To protect the amenities of the area.

7. Full details of the vehicular and pedestrian access to serve the proposed development shall be submitted for written agreement of the Planning Authority prior to the commencement of development.

Reason: In the interest of traffic safety.

8. Car parking shall be provided in accordance with City Development Plan standards. Prior to commencement of development the developer shall submit to the planning authority for written agreement, full details of car parking provision.

Reason: In the interest of orderly development.

9. Water supply and all 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 and to ensure a proper standard of development.

10. The construction of the development shall be managed in accordance with a Construction Management Plan which shall be submitted to, and agreed in writing with the planning authority prior to the commencement of development. This plan shall provide details of intended construction practice for the development, including hours of working, noise management measures and off-site disposal of waste.

Reason: In the interest of amenities and public safety.

11. Prior to commencement of development, a landscaping scheme shall be submitted to the planning authority for agreement. The site shall be landscaped in accordance with the agreed scheme, which shall also include a timescale for implementation.

Reason: In the interest of visual amenity.

12. - (a) The developer shall constitute a waste management company or structure for dealing with waste arising in the development. Prior to commencement of development the developer shall submit to the planning authority for written agreement, full details of a waste management structure proposed for the development. Details shall include proposals for waste reduction, reuse, recycling, storage, as well as who will manage the waste, present it for collection, and dispose of it.

(b) The developer shall provide and maintain within the confines of the site, facilities for the storage of recyclable materials e.g. paper, cardboard, glass, metal. The developer shall make arrangements for the proper collection and submission for recycling of these materials.

(c) All solid wastes arising on the site shall be recycled as far as possible. Materials exported from the site for recovery, recycling or disposal shall be managed at an approved facility and in such a manner as is agreed with the planning authority. In any case no such wastes shall be stored on the site except within the confines of the buildings on site. Adequate on site arrangements shall be made to the satisfaction of the planning authority for the storage of recyclable materials prior to collection. The developer shall ensure that the site and its environs are maintained at all times in a clean and tidy condition. The applicant shall maintain a register of waste material disposed from the site and records shall be made available for inspection by the Local Authority at all reasonable times.

(d) The developer shall provide within the curtilage of the site designated vented waste storage space of sufficient capacity to accommodate the segregated storage of municipal waste, food waste and mixed dry recyclables. Prior to commencement of development the developer shall submit to the planning authority for written agreement, full details of waste storage space, including methods of ventilation, proposed for the development.

Reason: In the interest of orderly management and disposal of waste.

13. The developer shall ensure that prior to commencement of development, details of a Traffic Management Plan during the construction phase, shall be submitted to the Planning Authority for their written agreement.

Reason: In the interest of development control and traffic safety.

14. Prior to the commencement of any works on site, the applicants shall ascertain and comply with all requirements of the Environmental Health Officers Department.

Reason: In the interests of public health.

15. Prior to the commencement of development an Emergency Management Plan for flood events shall be submitted for the written agreement of the planning authority. The plan shall address the evacuation of vulnerable patrons as well as all other occupants of the hotel.

Reason: In the interest of public health.

16. Upon commissioning of the structure, noise from activities associated with this development shall not give rise to noise levels off site exceeding 55 dB(A) Leq, 15 minutes during the hours of 0800-2200 and 45 dB(A) Leq, 15 minutes during the hours of 2200-0800. There shall be no audible tonal or impulsive noise. The developer shall reengage the services of a noise specialist to assess compliance with this condition as required. Noise levels shall be measured at the noise monitoring locations. Monitoring results shall be submitted to the Planning Authority on a 6 monthly basis. Prior to commencement of development the developer shall submit to the planning authority for agreement full details of the noise monitoring survey and full

details of all service plant including lifts, pump, generators, boilers, coolers and fridges. Details shall include location and anticipated noise levels.

Reason: In the interest of residential amenity.

17.(a) Tree felling and clearing of vegetation shall take place outside of the bird nesting season. (b) The developer shall ensure that any excavated material stockpiled on site during construction shall be held in a manner such as to ensure that no silt or run-off from these stockpiles enters any watercourse. (c) The developer shall ensure that the river banks and their habitats for fish, mammals and birds are not negatively impacted upon by the construction works.

Reason: In the interest of preservation of wildlife.

18. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to 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 An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

Kenneth Moloney
Planning Inspector

4th October 2017