



An
Bord
Pleanála

Inspector's Report PL28.248665

Development	Demolition of warehouse and office building and construction of 63 student apartments including 1 no. staff apartment, reception, office, refuse facility, car parking and associated site works.
Location	Former O'Mahony Packaging Building, Melbourne Rd, Bishopstown, Cork
Planning Authority	Cork City Council
Planning Authority Reg. Ref.	16/37034
Applicant(s)	Montesa Ltd
Type of Application	Permission.
Planning Authority Decision	Grant Permission.
Type of Appeal	Third Party
Appellant(s)	Parchment Square Management Co. Ltd
Observer(s)	None.
Date of Site Inspection	21 st September 2017
Inspector	Fiona Fair.

1.0 Site Location and Description

- 1.1. The appeal site (with a stated site area of 0.659 ha) is located within the Model Business Park, immediately west of the junction of Model Farm Road and Rossa Avenue approx. 4.5 Km to the south west of Cork City centre.
- 1.2. The site, formerly in use as O'Mahony Packaging, currently hosts a large c. 4,399 sq. m warehouse and office building, two storeys but the equivalent height of three standard residential storeys. The warehouse buildings to be demolished are adjoined by the Motor tax office building and associated car parking located to the north east of the site. The site adjoins four – storey student accommodation in Parchment Square to the west, Cork Institute of Technology (CIT) premises to the south and various commercial uses in the Model Business Park to the north. Cork Technology Park is located further to the north of the appeal site on the opposite side of Model Farm Road.
- 1.3. Residential accommodation in the area includes a mixture of established suburban housing and student accommodation.
- 1.4. The appeal site has frontage onto and is accessed via Rossa Avenue. The access is approx. 7m in width at the entrance, it widens as one enters the site and extends for approx. 67 m to the boundary with Parchment Square Student Accommodation to the south west corner of the site. From my site visit it is evident that the access way is demarcated with single continuous white and double yellow lines.
- 1.5. The access way essentially comprises a controlled Right of Way (ROW) Wayleave through from Rossa Avenue to Parchment Square. Large lettering on the access way denotes 'Keep Clear Right of Way'. Electronic vehicular and pedestrian gates currently control access to / from Rossa Avenue and to / from Parchment Square.
- 1.6. There is a separate vehicular access to Parchment Square Apartments from the west which forms a junction with Model Farm Road to its north. The Motor Tax Office car park is solely accessed via the appeal site access off Rossa Avenue.

2.0 Proposed Development

2.1. The proposal comprises permission for:

- Demolition of warehouse and office building (4,399 sq. m)
- Construction of 63 student apartments (9,721 sq. m) divided over five apartment blocks of 3, 4, and 5 stories
 - Including:
 - 1 no. staff apartment,
 - Ranging from 2 – 8 bedrooms in each apartment
 - Providing 348 student bed spaces in total
 - reception,
 - office,
 - refuse facility,
 - 172 bicycle spaces
 - car parking (32 car spaces and 4 mobility impaired spaces)
- All associated site works

Proposal was revised by way of F.I to include a total of 344 bed spaces with 62 apartments, breakdown as follows:

- 19 – 8 bedrooms
- 17 – 6 bedrooms
- 4 – 5 bedrooms
- 10 – 4 bedrooms
- 7 – 3 bedrooms
- 4 two bedrooms and
- 1 - 1 bedroom (staff)

3.0 Planning Authority Decision

3.1. Decision

Following a request for Additional Information with respect to

Items 1 – 10 Water and Drainage Infrastructure

(1) detailed watermain layout (2) details of location of public foul sewer on site, (3) full details of wayleave and ROW in respect of the foul sewer. (4) details of foul water connection (5) capacity of foul sewers (6) details of surface water run off (7) location and detail of public storm sewer (8) wayleaves and ROW in respect of public storm sewer (9) details of storm runoff and connection to public storm sewer (10) details of storm sewer gradient and diameters – adequacy of existing storm sewers to cater for the development.

Item 11 Legal Interest, parking and footpath

(11) (a) confirmation that the applicant has sufficient legal interest to modify the existing layout with respect to shared car parking area adjacent to Rossa Avenue and access thereto, and to provide car parking and other ancillary development along the existing wayleave / ROW along the southern boundary of the site.

Alternative car parking proposal required if sufficient legal interest not shown. (11

(b)) how the proposed car parking spaces are to be managed and restricted for use by the occupants of the proposed development only. (11(c)) revised plans for four motorcycle spaces (11. (d)) revised plans for 1.8m wide footpath along Rossa Avenue for the length of the proposed development site boundary, which ties into the existing footpath network.

Item 12 Boundary Treatment

(12) details of boundary treatment and details of proposals as to how the exposed walls of the adjoining buildings are to be treated.

13. Modifications to the Scheme

(13 (a)) the omission of one floor from the east – west aligned wing of Block E. (13

(b)) the omission of windows serving living areas at all levels found to fourth floor in Blocks B, C and E located in the western elevation along the western site boundary.

(13 (c)) modification of six of the eight proposed student apartments in Block D which

exceed the maximum 160 sq. m recommended in the Guidelines on residential Developments for 3rd Level Students. (13 (d)) The omission of windows on all levels in the eastern elevation of Block D which are located along the site boundary and will be affected by a surface car park and roof plant, alternatively setting back of Block D from the site boundary. (13 (e) improved provision of communal leisure, study and meeting areas (13 (f)) additional hard and soft landscaping for the proposed bicycle parking area at the north eastern corner of the site.

Item 14 Revised Schedule of Floor areas

(14) A revised schedule of accurate gross internal floor areas for the entire proposed development.

Subject to a Material Contravention of the City Development Plan Planning permission was Granted subject to 22 number Conditions. Conditions of note include:

Condition 2. Student accommodation (and ancillary uses, as permitted) only

Condition 3. Details of all proposed external finishes to be agreed with the p.a.

Condition 4. A revised wayleave in respect of foul sewer located within the site, to allow Irish Water access to the public foul sewer within the site for the purpose of maintenance, repair and future connection.

Condition 5. A revised wayleave in respect of storm sewer located within the site, to allow Cork City Council access to the public storm sewer for the purpose of maintenance, repair and future connection.

Condition 7. A management plan which details proposals to provide 24 hour on-site management of the units.

Condition 8. Waste management and disposal

Condition 9. Construction Noise

Condition 11. Operational noise

Condition 13. (a) Four of the permitted car parking spaces shall be disabled parking spaces (b) adequate space shall be allocated for the charging of electric vehicles

Condition 14. Construction Traffic Management Plan

Condition's 16 & 17 & 18 public lighting

Condition 19. The applicant shall agree with the p.a. how the allotted parking for the development will be managed and restricted. All costs associated with this condition shall be borne by the developer.

Condition 20. All proposed vehicular and pedestrian access points shall be designed in accordance with the design principles set out in the Design Manual for Urban Roads and Streets (DMURS) to provide pedestrian priority over vehicles. A revised design, showing all vehicular crossovers within the development and upgrades to the access from Rossa Avenue, will be submitted to the p.a. for agreement in writing prior to commencement of development. The design should include raised crossovers to facilitate wheelchair users. All costs associated with this condition shall be borne by the developer.

Condition 21 Management company.

Condition 22 Development Contribution

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Planners Report recommends a grant of planning permission subject to a material contravention of the City Development Plan. The land-use zoning objective ZO7 'Business and Technology' does not facilitate residential uses, and therefore the proposed development would materially contravene the City Development Plan.

The Planners report considers the proposal acceptable in principle, subject to condition, having regard to the nature and location of the site, the general pattern of development in the surrounding area, and the nature and scale of the proposed development. However, the issue of land use zoning was raised.

Water Services / Drainage Report: Subsequent to F.I No objection subject to condition

Road Design Report: No objection subject to condition.

Transportation Report: No objection subject to condition.

Other Reports:

Irish Water (IW): further information requested with respect to existing water main layout, its location and detail (ii) wayleave and ROW in respect of foul sewer (iii) foul water discharge (iv) details of capacity of foul sewers.

Health and Safety Authority: No objection

3.3. Third Party Observations

Objections were submitted to the planning authority, concerns raised are similar to those raised in the third party appeal, summarised in detail below.

4.0 Planning History

- 4.1. **Reg. Ref. TP00/24282** Permission granted to retain change of use to car parking and ancillary works.
- 4.2. **Reg. Ref. TP05/29841** Permission granted for change of use of second floor to office use and roller shutter door and canopy
- 4.3. **Reg. Ref. T.P.05/29505** Permission granted, for two storey extension to office / warehouse building.

5.0 Policy Context

Strategic Guidance:

- 5.1.1. **Joint Housing Strategy 2014 (Cork City and County Councils)**
- 5.1.2. **Separately, qualifying criteria for design (For financial incentives) are set out in: Guidelines for residential developments for third level students (Section 50 Finances Act 1999).**
- 5.1.3. **Design Manual for Urban Roads and Streets (2013)**
- 5.1.4. **Sustainable Residential Development in Urban Areas, 2009, make the point that high quality sustainable urban housing is a function of a number of factors including mix of unit sizes, adequate unit sizes, internal storage space, private and shared open space, preferably dual aspect and refuse management.**

5.1.5. Development Plan

The site is governed by the policies and provisions contained in the Cork City Development Plan 2015-2021.

Core Strategy

The Core Strategy is set out in Chapter 2 and the following strategic goals are noted:

- Goal 1 Increase population and households to create a compact sustainable city
- Goal 2 Achieve a higher quality of life, promote social inclusion and make the city an attractive and healthy place to live, work, visit and invest in.

The site is located on lands zoned **ZO7 'Business and Technology'** with the objective 'to provide for high technology related office based industry'.

The following sections of the City Development Plan, of relevance to the subject appeal case, are attached as excerpts to this report.

Paragraph 15.13 refers to Business and Technology

Paragraph 15.4 refers to Material Contraventions and variations of the City Development Plan

Chapter 6 comprises the residential strategy.

Objective 6.1 lists general residential strategic objectives.

Objective 6.5 relates to student accommodation.

Part B: Urban Design of Chapter 16 relates to Urban Design principles;

Objective 16.3 sets out the Urban design objectives and states:

Objective 16.3 Urban Design

Residential Development Standards Part C Residential Development

Student Accommodation 16.68

Objective 16.9 Sustainable Residential Development

Paragraph 16.49 Proposals for New Residential Developments

Car and Cycle Parking

Part G of Chapter 16 sets out various objectives and standards in relation to parking. Table 16.8 sets out maximum car parking standards.

In accordance with Figure 16.1 of the City Development Plan the proposed development site is located within Zone 3.

Table 16.8 Car Parking Standards requires one car space per 10 bed spaces for Student Housing in Zone 3

Table 16.9 sets out bicycle parking standards. Student Apartments require 0.5 per bed space.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. The issues raised are summarised as follows:

6.1.2. The sole issue of objection raised in the appeal relates to maintaining the right of way (ROW)

Impact Upon Right of Way (ROW)

- The proposed car parking layout and refuse storage area impinges upon the ROW contrary to rights of Parchment Square Management Company
- Parchment Square student accommodation complex consists of 16 blocks which accommodate 575 students
- A ROW duly agreed and registered cannot be diminished by one party
- The parking of cars on the ROW, as proposed, diminishes that right
- Parchment Square owners of that specific ROW are not in agreement with any dilution of the ROW what was originally purchased from the developer.
- To date all students of CIT e.g. student's resident in Eden Hall, in Abbeville and from surrounding private accommodation and Parchment Square have

the right under licence to access C.I.T. through Parchment Square and the connecting walkway from Parchment Square to CIT

- Notice has been given that the enabling licence will be revoked on 30th June 2017. From that date forward all Parchment Square students and an unknown number of other students will use the right of way to access Rossa Avenue.
- It is paramount that the ROW not be compromised
- The fixed structure refuse impinges upon the identified ROW
- The ROW as outlined on the site plans is not consistent with the land registry layouts which shows the ROW abutting the existing structure and the site plan space between the building and highlighted ROW.
- Potential hazard to students traversing from Parchment Square and other Student Accommodation Complexes to Rossa Avenue.

Appeal accompanied with:

- Copy of Observations submitted to the p.a. dated 19.09.2016 and 22.03.2016
- Letter of acknowledgement of observation from the p.a.
- Copy of draft grant of planning permission Reg. Ref. 16/37034

6.2. First Party Response:

- Enclose copy of solicitor's letter previously included with F.I. which states: 'may use the area for parking of cars as long as there are no permanent structures and free passage is allowed for'.
- Acknowledge that the wayleave as previously drawn was not entirely correct and is corrected on the revised enclosed drawing no. 1078-A02.
- This also shows minor alterations to the structures adjoining the wayleave such that there is no encroachment on same.
- Propose that the refuse storage location be moved to a central, covered area within the controlled and gated section of the development.
- It was never the intention to make any encroachment nor to dilute the ROW that exists in favour of the adjoining owners.

- The ROW has been indicated on all planning drawings and has now been shown precisely.
- There are no fixed structures located within the ROW and as such there is no impediment to the Board issuing a positive decision to the applicant.

Response accompanied with:

- Letter from Foley Turnbull Solicitors, dated 21st February 2017.
- This letter was submitted as part of F.I. to the p.a.

6.3. Planning Authority Response

- 6.3.1. Two letters of response received 1st states no further comments forthcoming. The second response is summarised as follows:

Staff Apartment

- The proposed modified staff apartment (Ground Floor) at 37 sq. m is below the minimum floor area of 45 sq. m for a one-bedroom apartment specified in the sustainable urban housing; Design Standards for New Apartments Guidelines for Planning Authorities 2015.
- It also falls below the 40 sq. m minimum floor area for a studio apartment, notwithstanding the fact that the proposed staff apartment does not conform with the Guidelines definition of a studio.

Refuse Storage Area

- The proposed modified refuse storage area is significantly smaller than that permitted by the p.a.
- Insufficient information provided to assess if the capacity proposed is sufficient for the scale of the development.
- Information on the waste management proposed for the development, incl. waste reduction, reuse, segregation, recycling, storage, who will manage the waste, disposal of it and present it for collection, as well as the number of collections per week, and calculations in relation to the estimated weekly amount of waste generated, calculations and design should be in line with British Standards BS 5906:2005

- Following general design considerations should be taken into account in the provision of refuse storage facilities:
 - Sufficient communal storage area
 - Provision of separate collection facilities for other recyclables such as glass and plastics;
 - Waste storage areas must be adequately ventilated so as to minimise odours and potential nuisance
 - Sufficient access for waste collectors,
 - Waste storage areas should present any safety risk to other users and should be well lit
 - Waste storage areas should not be on the public street and should not be visible to or accessible by the general public, appropriate visual screening should be provided, particularly in the vicinity of apartment buildings.
 - Capacity for washing down waste storage areas, with wastewater discharging to the sewer

6.4. Appellants Response to First Party Response

- Parchment Square has received clear legal advice from Babington Clarke & Mooney Solicitors that the complete ROW is 'sterilised' for any use, which would interfere with its use or future use by Parchment Square as a ROW.
- The applicant's proposal to place a permanent car park, over large sections of this ROW is a clear interference with this ROW. The proposal is not for a temporary car park or temporary use during construction work, but a permanent feature.
- It is thus seeking, through the planning process to reduce this ROW.
- Permanent hard landscaping, footpaths, kerbing etc. over sections of this ROW restrict the use of these sections as a ROW
- The original planning proposal and subsequent FI is deficient in the number of car parking spaces provided for a student body.

- The car parking should be provided in an area, currently covered with buildings or underneath the proposed buildings, similar to Parchment Square and Eden Hall.
- Concern with respect to traffic, health and safety aspects of the proposal.
- CIT has closed the existing walkway from Parchment Square to CIT which was a temporary agreement.
- 900 pedestrian students will be passing through the proposed restricted ROW, between 8:45 am and 9:15 am
- In addition, you will have cars entering and leaving from Rossa Ave at the same time within a much restricted space.
- The ROW was specified, sized and paid for to (i) suit the numbers from Parchment Square (ii) provide for concurrent maintenance, repair and operation of all services running underneath and (iii) provide for full emergency services access

7.0 **Assessment**

7.1. I consider the key issues in determining this appeal are as follows:

- **Principle of the Development on the Site and Revised Plans**
- **Impact Upon Right of Way (ROW)**
- **Other Issues**
 - **Car Parking & Traffic Safety**
 - **Size of staff apartment**
 - **Refuse Storage**
- **Appropriate Assessment**

7.2. Principle of the Development on the Site and Revised Plans

7.2.1. The proposed development as revised by way of Further Information submitted to the p.a. comprises:

(a) Demolition of existing warehouse and office building

(b) Construction of 62 apartments with 344 bed spaces, incl. one one-bedroom staff apartment.

7.2.2. The accommodation is divided over five apartment blocks of 3, 4, 5 stories together with staff accommodation, including the one-bedroom staff apartment, reception, management / staff office, recycling / refuse facility, storage, vehicular and pedestrian access, 172 bicycle parking spaces and 36 car parking spaces.

7.2.3. I highlight for the Boards attention that the applicant has by way of response to the third party appeal made further amendments to the plans. Revised floor plans and elevation drawings / sections were submitted to the Board on the 21st July 2017, accompanied with land registry Map, folio number CK88392F. It is submitted that the 'minor alterations' to the structures are necessary such that there is no encroachment on the Right of Way (ROW) which exists along the full length of the southern portion of the site from Rossa Avenue (to the east) to Parchment Square Apartments (to the west). The full extent of which, it is submitted, is set out in Map Folio number CK88392F

7.2.4. I note that the revised plans make amendments as follows:

Block A: Staff apartment reduced from 46 sq. m to 37 sq. m, Apartment 104 and 204 layouts have been revised, however, the floor area remains static at 78 sq. m. The internal ground floor storage area within Block A has been reduced from 58 sq. m to 47 sq. m, the reception area reduced from 34 sq. m to 27 sq. m and the management office reduced from 15 sq. m to 10 sq. m The building façade has been stepped back from the front / southern elevation, so as not to encroach on the ROW.

Block B: Ground floor apartment B.G.01, first floor apartment B.101, second floor apartment B.201 and third floor apartment B.301 have all been reduced from 61 sq. m to 58 sq. m. The front façade of the building has been stepped back slightly at an angle.

- 7.2.5. The refuse storage area located to the southern boundary and for which draft permission was granted by the p.a. is to be moved to a central, covered area within the controlled and gated section of the development. I note that the number of bin spaces has been reduced from 18 to 7. The number of car parking spaces has been increased from 36 to 41.
- 7.2.6. Regard being had to Section 132(1) of the Planning and Development Acts 2000-2006 it is my opinion the revisions put forward by the applicant are not too significant a deviation from that considered and Granted by Cork City Council, regard being had to proposed height, design, nature of the proposal and number of student apartments proposed. I am of the opinion that the revision is such that revised public notices are not required.
- 7.2.7. The proposal constitutes a material contravention of the Cork City Development Plan. The subject site is situated on lands zoned for Business and Technology Uses, where it is the policy of the Council: 'To provide for high technology related office based industries.' This zoning does not facilitate residential uses. The Material Contravention, which required a minimum of 23 votes in favour was passed by the City Council and draft planning permission (Reg. Ref. 16/37034) granted subject to 22 number conditions. The proposal was assessed with respect to urban design, residential development standards, student residential accommodation standards and quality, access, car and cycle and parking, compliance with National, Regional and Local Guidelines and Policy, Environmental Assessment, Appropriate Assessment, Flood Risk Assessment and it is the recommendation of the p.a. that the proposed development either meets the standards set out or can be modified in order to satisfy the main objectives of the standards for student accommodation developments. It is also considered that the proposed development would not have a detrimental impact upon residential or visual amenities, having regard to location and context of the proposed development site.
- 7.2.8. Having assessed the information on the file and having carried out a site visit, I agree with the opinion of the planning authority that regard being had to the nature and location of the site, the general pattern of development in the surrounding area and the nature and scale of the proposed development, that the principle of the development is acceptable.

7.3. Impact Upon Right of Way (ROW)

- 7.3.1. The sole issue of objection raised in the appeal relates to maintaining the right of way (ROW). It is submitted that a ROW duly agreed and registered cannot be diminished by one party. That the proposed car parking layout and refuse storage area impinges upon the ROW contrary to rights of Parchment Square Management Company. That the ROW as outlined on the site plans is not consistent with the land registry layouts which shows the ROW abutting the existing structure and the site plan space between the building and highlighted ROW. Parchment Square submits that they received clear legal advice from Babington Clarke & Mooney Solicitors that the complete ROW is 'sterilised' for any use, which would interfere with its use or future use by Parchment Square as a ROW.
- 7.3.2. The first party acknowledge that the wayleave as previously drawn was not entirely correct and submit it is now corrected on the revised enclosed drawing no. 1078-A02, submitted to the Board on the 21st July 2017, on foot of which amendments have been made to the layout and design of Blocks A and B. It is submitted that it was never the intention of the applicant to make any encroachment nor to dilute the ROW that exists in favour of the adjoining owners. It is contended that as there are no fixed structures located within the ROW there is no impediment to the Board issuing a positive decision to the applicant. The applicant relies upon a solicitor's letter (Foley Turnbull Solicitors) previously included with F.I., dated 21st February 2017, which states: 'we can confirm that while our clients are not interfering with the rights of way as coloured yellow on the enclosed File Plan with permanent structures, they may use the area for parking of cars as long as there are no permanent obstructions and free passage is allowed for.'
- 7.3.3. The applicant has in my opinion demonstrated sufficient legal interest to apply for planning permission for the layout, as amended by way of F.I. and further by way of the plans and drawings submitted to the Board. It is submitted that the ROW has been indicated on all planning drawings and has now been shown precisely. I highlight for the attention of the Board the legal opinion, in favour of the first party, as set out in the letter from Foley Turnbull Solicitors in relation to the ROW.

While the appellant submits that Parchment Square has received clear legal advice from Babington Clarke & Mooney Solicitors that the complete ROW is 'sterilised' for

any use, which would interfere with its use or future use by Parchment Square as a ROW, this evidence or a copy of same has not been submitted to the Board.

- 7.3.4. The matter of clear passage over, placement of demarcated car parking upon the ROW or complete sterilisation is a legal matter between the parties in the first instance and not strictly a planning consideration. It is my opinion that the applicant has demonstrated sufficient legal interest in the appeal site / lands in order to make the planning application. Regard is had to Section 34(13) of the Planning and Development Act 2000, as amended, I highlight that it is not the role of An Bord Pleanala to adjudicate on civil property matters and a person is not entitled solely by reason of a permission to carry out any development.

Other Issues

7.4. Pedestrian Safety and Car Parking

- 7.4.1. Pedestrian safety, location of and the quantum of proposed car parking has been raised by the appellant.
- 7.4.2. 41 car parking spaces, 4 motor cycle parking spaces and 172 cycle parking spaces are proposed. Table 16.8 Car Parking Standards, sets out the maximum car parking requirement, & Table 16.9 sets out Bicycle Parking Standards as follows:

Type	CDP standard	No. of bedspaces	Standard	Provision
Cars	1 per 10 bed space	344	34.4(max)	41
Bicycles	0.5 per bed space	344	172	172

- 7.4.3. It is submitted that the internal road layout and geometry is compliant with the requirements of DMURS. It is the opinion of the Road Design Division of Cork City Council that while the proposal will lead to significant intensification of use of the existing entrance in terms of vehicles, pedestrians and cyclists, it is acceptable subject to condition. The Transport and Mobility Report also recommend a grant of permission subject to condition.
- 7.4.4. The appeal site is located approx. 4.5 Km to the south west of Cork city centre and within walking distance of CIT campus (located directly to the south of the site). A number of bus routes travel directly adjacent to the site. The surrounding area is

comprised of a mix of commercial, residential, retail and educational uses. I am of the opinion that the quantum of car and bicycle parking and also pedestrian access to the site is acceptable. I note the proposal for 1.8m wide footpaths and connectivity to existing footpaths.

- 7.4.5. The appeal lands are zoned lands located within the development boundary of Cork City. Given the nature, scale and location of the proposed development, it is my considered opinion that there would be minimal additional traffic added to the road network in the peak periods. Therefore, I consider that the proposed development would not give rise to a traffic hazard or create dangers for road users.

7.5. Size of Staff Apartment

- 7.5.1. The planning authority in their response to the appeal has concern with respect to the size of the staff apartment, as amended by way of the revised plans submitted to the Board.
- 7.5.2. The proposed modified staff apartment (Ground Floor Block A) at 37 sq. m is below the minimum floor area of 45 sq. m for a one-bedroom apartment specified in the Sustainable Urban Housing; Design Standards for New Apartments Guidelines for Planning Authorities 2015. It also falls below the 40 sq. m minimum floor area for a studio apartment, notwithstanding the fact that the proposed staff apartment does not conform with the Guidelines definition of a studio.
- 7.5.3. I agree that the staff apartment reduced from 46 sq. m to 37 sq. m is deficient. From a review of the revised plans submitted to the Board, in particular, Ground Floor Plan Drawing. Number 1078-A02 I see no impediment to the staff apartment being increased by 6.84 sq. m by way of moving the northern wall of the block 1.951 m to the north. This I highlight would have a knock on impact to the first and second floors of Block A – Apartment A104 and Apartment A204 both of which are currently three bedroom with a stated floor area of 78 sq. m
- 7.5.4. This amendment would result in the loss of one car parking space, however, given the number of car parking spaces has increased to 41 and the requirement (Max) is 35 I see no impediment in this regard.

I recommend that should the Board agree, that this matter can be resolved by way of condition.

7.6. Refuse Storage

- 7.6.1. The planning authority in their response to the 3rd party appeal has raised capacity and location of the refuse storage area, as revised by way of Drawing. Number 1078-A02 submitted to An Bord Pleanála on the 21st July 2017
- 7.6.2. The revised refuse storage area is located in a central, covered area within the controlled and gated section of the development. From the plans submitted I calculate that the number of proposed bin spaces has been reduced from 18 to 7.
- 7.6.3. The revised location of the refuse storage area is acceptable in principle, subject to good housekeeping and management. Such a significant reduction in the capacity of the on-site refuse storage is, however, undesirable. To overcome this matter I recommend that the applicant be required to liaise with the planning authority and agree in writing the location and capacity of a second covered, communal refuse area within the confines of the site. It may be appropriate to locate same to the north of the site within the bicycle parking area. Should the area given over to bicycle parking be reduced additional planned, dedicated, covered, bicycle parking stands should be accommodated within the central landscaped squares.

7.7. Appropriate Assessment (AA)

- 7.7.1. The closest European Sites are the Cork Harbour SPA (site code 004030) and the Great Island Chanel cSAC (site code 001058). An AA screening report has been completed by the p.a. It is considered that the proposed development would not affect the integrity of the European sites referred to above. Accordingly, it is considered that appropriate assessment is not required.
- 7.7.1. Having regard to the nature and scale of the proposed development and nature of the receiving environment and proximity to the nearest European site, 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.

8.0 Recommendation

- 8.1.1. I recommend that the decision of the planning authority be upheld and planning permission be Granted to the proposed development.

9.0 Reasons and Considerations

- 9.1.1. Having regard to the nature, location and context of the site and surrounding area, the policies and objectives of the Cork City Development Plan 2015 – 2021 and the nature and scale of the proposed development, it is considered that subject to compliance with the conditions set out below, the development, would be acceptable in terms of traffic and pedestrian safety, residential impact and visual impact. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1. The development shall 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 on the 28.02.2017 and plans and particulars submitted to An Bord Pleanala on the 21.07.2017, 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. Prior to commencement of any development the following shall be submitted to and agreed in writing with the planning authority.

- (a) Revised floor plans and elevation drawings showing the staff apartment located in Block A increased in size by 6.84 sq. m, to a minimum of 43 sq. m. This shall be achieved by way of moving the northern wall of Block A 1.951 m to the north.

- (b) On foot of (a) revised floor plans and elevation drawings for the first and second floor of Block A. Namely Apartment A104 and Apartment A204 both of which shall be increased similarly to the ground floor staff apartment.
- (c) Capacity and location of a second refuse storage area within the confines of the site to provide for adequate screened communal bin stores.
- (d) Should the inclusion of a secondary refuse storage area impinge upon the area allocated to cycle parking (172 number spaces), replacement covered secure cycle parking facilities, shall be incorporated into the open space squares, central to the development.
- (e) Full details including samples of the proposed external finish.

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

3. This permission is for student accommodation (and ancillary uses, as permitted) only. No permission is granted for any other type of use, and no change of use shall take place – including change of use to other types of residential accommodation – without a prior grant of planning permission from the planning authority or An Bord Pleanála.

Reason: In the interest of orderly development.

4. Prior to commencement of any development the following shall be submitted to and agreed in writing with the planning authority.

- (a) A management plan for the development which details proposals to provide 24 hour on-site management of the units.

Reason: In the interest of the amenities of occupiers of the units and surrounding properties.

5. Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority and Irish Water for such works and services.

Reason: In the interest of public health.

6. 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 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 construction/demolition waste.

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

7. (a) Four of the allotted car parking spaces shall be disabled parking spaces.
- (b) Adequate space shall be allocated to cater for the charging of Electric Vehicles (EVs) on the site, as provided by ESB ecars, in line with National Guidelines and the City Development Plan 2015 – 2021.
- (c) The applicant shall agree with the planning authority how the allotted car parking for the development shall be managed and restricted. All costs associated with this condition shall be borne by the developer.

Reason: In the interests of traffic safety.

8. All proposed vehicular and pedestrian access points shall be designed in accordance with the design principles set out in the Design Manual for Urban Roads and Streets (DMURS) to provide pedestrian priority over vehicles. A revised design, showing all vehicular crossovers within the development and upgrades to the access from Rossa Avenue, shall be submitted to the planning authority for agreement in writing prior to commencement of development. The design should include raised

crossovers to facilitate wheelchair users. All costs associated with this condition shall be borne by the developer.

Reason: In the interests of pedestrian safety and traffic safety.

9. The management and maintenance of the proposed development following its completion shall be the responsibility of a legally constituted management company.

A management scheme providing adequate measures for the future maintenance of public open spaces, roads and communal areas shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: To provide for the satisfactory future maintenance of this development in the interest of residential amenity

10. Public lighting shall be provided in accordance with a scheme, which shall include lighting along pedestrian routes, for the extent of the new building line, through open spaces, 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 of the apartments.

Reason: In the interests of amenity and public safety.

11. (a) A plan containing details for the management of waste and, in particular, recyclable materials within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials and for the ongoing operation of these facilities for each apartment unit shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the waste shall be managed in accordance with the agreed plan.

Reason: In the interest of residential amenity, and to ensure the provision of adequate refuse storage.

12. That all necessary measures be taken by the contractor, including the provision of wheel wash facilities, to prevent the 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.

13. 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.

Fiona Fair
Planning Inspector
28/09/2017