



An  
Bord  
Pleanála

## Inspector's Report PL28.248998

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<b>Development</b>	Permission for the mooring of a vessel for use as a restaurant and hotel and associated site works
<b>Location</b>	Penrose Quay, Cork.
<b>Planning Authority</b>	Cork City Council
<b>Planning Authority Reg. Ref.</b>	16/37209
<b>Applicant(s)</b>	Sick & Sore Limited
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Brian O'Mahony
<b>Observer(s)</b>	Conor Lee
<b>Date of Site Inspection</b>	24 <sup>th</sup> October, 2017
<b>Inspector</b>	A. Considine

## 1.0 Site Location and Description

- 1.1. The site the subject of this appeal is located on the northern channel of the River Lee in Penrose Quay and immediately adjacent to Michael Collins Bridge. The site, is located in the Docklands area of the City, and within an area characterized by a variety of uses. Penrose Wharf houses a variety of retail and commercial uses, as well as housing a number of state/semi state and charitable services. The site is accessed off the N8 to the north with Kent Station approximately 400m to the north of the site and the Bus Eireann station approximately 200m to the south.
- 1.2. To the south of the site, and at the confluence of the north and south channels of the River Lee, lies Custom House Quay which has been home to the Port of Cork Headquarters, and includes a number of listed buildings and warehouses. These buildings appear to be vacant. Further south, and beyond the southern channel, is Albert Quay which has been subject to redevelopment in recent years providing for tourism and office related developments.
- 1.3. The site has a stated area of 0.4ha and the majority of the site is located within the River Lee.

## 2.0 Proposed Development

- 2.1. The application to Cork City Council was for permission for the mooring of a vessel at Penrose Quay, Cork for use as a restaurant and hotel. Modifications to the quay wall to provide gangway access and modifications to the existing footpath to provide for a vehicular set-down area and all associated ancillary development works at Penrose Quay, Cork.
- 2.2. In support of the proposed development, the following documents were submitted:
  - A covering letter
  - Completed application form including the relevant plans, particulars and fee
  - Planning Report
  - Appropriate Assessment Screening Report
  - Letter of Consent from Port of Cork

2.3. The submitted application advises that the proposed vessel will be connected to the quay wall and as it will have no connection / interaction with the foreshore, a foreshore licence or lease is not required. The vessel to be moored was previously used as a River Rhine luxury cruise ship and is built for the proposed purpose. The vessel has three decks containing 87 cabins and associated facilities, lounge areas, a sun deck and restaurant. The dimensions of the ship are indicated at 105m in length and 12m wide. While the ship is self-sufficient, it is proposed to connect to the shore facilities and a proposed pumped foul sewer will be installed and connect to the existing foul manhole on Penrose Quay. A water-mains connection will also be made. The Planning Report submitted with the application notes that while the ship may change, depending on availability subject to planning permission, the parameters of scale and class of vessel will not. The final vessel will be agreed with the Planning Authority prior to the commencement of development.

### **3.0 Planning Authority Decision**

#### **3.1. Decision**

The Planning Authority, following a number of further information and clarification requests, decided to grant planning permission for the proposed development, subject to 21 conditions. The Board will note the following conditions:

- Condition 2: Temporary permission for three years
- Condition 3: The ship to be berthed shall not differ materially in terms of scale and capacity from that indicated in drawings submitted on the 13/06/2017.

#### **3.2. Planning Authority Reports**

##### **3.2.1. Planning Reports**

The Planning Officers report formed the basis of the planning authority's decision to grant permission. The initial report considered that further information was required. Following two submissions, the planning officers report accepts that the proposed development is acceptable, but should be subject to a temporary permission in order to assess the impact of such a development on the amenities of the area and to

consider the implications of further Dockland Infrastructure. Appropriate Assessment, Environmental Impact Assessment and Flood Risk Assessment are also dealt with within the planning officers report.

### 3.2.2. Other Technical Reports

Roads Section: No objection in principle. The detail of the set down area is not in accordance with current best practice. Graduated kerbs should be replaced with 90° angles in order to maximise use of the space. Details to be agreed in advance of works. Two conditions recommended.

Further reports on the file note that the response to the further information request was inadequate, but that the issues could be resolved by way of condition of planning permission.

Environment Section: No objection subject to compliance with conditions.

Drainage Section: No objection subject to compliance with conditions.

Following receipt of the response to the further information request, the Drainage Section required clarification in relation to a number of issues.

A further report on the file notes that the response to the further information request was inadequate, but that the issues could be resolved by way of condition of planning permission.

Transport & Mobility Section: The proposed set down / loading area is 53m which is excessive. Further information required in relation to 5 issues including revised set down/loading area to comply with DMURS; confirmation of vehicle types and sizes likely to use the set down area; details of the maximum numbers of guests and staff on the vessel at any one time; size, capacity and opening hours of the restaurant and confirmation of whether the vessel will be moored and in operation on a 12 months-a-year basis.

Further reports on the file note that the response to the further information request was inadequate, but that the issues could be resolved by way of condition of planning permission.

### 3.3. Prescribed Bodies

Inland Fisheries Ireland: No objection provided Irish Water signifies there is sufficient capacity in existence so that it does not overload wither hydraulically or organically existing treatment facilities or result in polluting matter entering waters. No instream works are to be carried out without prior consultation with IFI.

Irish Water: No objection subject to compliance with conditions.

### 3.4. Third Party Observations

There is one third party submission noted on the Planning Authoritys file from Mr. Brian O'Mahony. The issues raised are summarised as follows:

- The development contradicts the North Docks Local Area Plan as Section 4.3.3 of the LAP outlines the commitment to the provision of pedestrian bridges which would make it impossible for the vessel to leave the dock to receive important maintenance.
- The amenity value of proposed bedrooms will be compromised as the vessel will be moored directly against the Quay wall.
- Issues raised in relation to the vehicular set down area.
- Impact on protected structures by reason of proximity.
- The development will impact on the pedestrian amenity of the area and obstruct the future provision of a cycle path.

## 4.0 Planning History

There is no relevant or recent planning history associated with the subject site.

Adjacent sites:

**PA ref TP08/33426:** Permission granted for temporary permission to construct a passenger ferry landing station at Fishguard Wharf, Horgan's Quay – located to the east of the subject site.

**PA ref TP15/36431:** Permission granted for the retention of the use of a floating pontoon and berthing facility for recreational craft accessed from Custom House Quay to the south of the site.

## 5.0 Policy Context

### 5.1. Development Plan:

5.1.1. The Cork City Development Plan 2015 – 2021 is the statutory Development Plan for the city of Cork. The subject site has two zoning objectives afforded to it and the north area of the site is zoned ZO 2, City Centre Commercial Core Area (CCA). It is the stated objective “to support the retention and expansion of a wide range of commercial, cultural, leisure and residential uses in the commercial core area, apart from comparison retail uses.” Part 15.8 of the Plan submits that ‘the Commercial Core Area reflects the commercial and employment zone of the City Centre extending from the City Centre Retail Area (ZO 1). All uses are permitted throughout the CCA, except comparison retail uses, which are restricted to the City Centre Retail Area unless they serve a local need only.

5.1.2. The south of the site, within the water body, is zoned ZO 19 Rivers / Water Bodies Protection where it is the stated objective of the council “to protect and provide for the appropriate recreational/amenity and transport use of the river/waterways.” Part 15.27 of the Plan advises that ‘Rivers and waterways within the Cork City area are important to the city for their intrinsic qualities as open spaces and also for their landscape value, natural heritage value, recreational value and visual value. Areas zoned for this purpose are protected as rivers / water body open spaces and for appropriate water-based recreational / cultural / river transport activity. Proposals for permanent or temporary commercial leisure uses will be open for consideration. The River Management and Use Plan, when completed, will provide a framework for the long term management of the River Lee in Docklands for recreation, environmental other activities.’

5.1.3. Chapter 13 of the City Development Plan deals with the City Centre and Docklands and Objective 13.1 provides for the strategic objectives for the area. It is a strategic objective of the City Council to:

- a. Sustain and enhance the vitality and attractiveness of Cork City Centre as the 'Healthy Heart' of the region and as a quality place to live, work and visit;
- b. Facilitate the orderly expansion of the City Centre eastwards into Docklands and support the progressive development of Docklands as a sustainable urban quarter to complement the continued vibrancy and primacy of the City Centre;
- c. Implement the appropriate recommendations of the City Centre Strategy report (2014);
- d. Support the City Centre in realising its full potential as the leading regional retail centre and the primary office location;
- e. Continue to develop Cork City Centre as a high quality, vibrant and adaptable location for the growth of indigenous and international business;
- f. To develop the City Centre as a desirable place to live for all by providing a quality, sustainable and socially inclusive housing stock in proximity to quality services and amenities;
- g. To develop and establish the City Centre as an international destination for tourism, business, culture, leisure and arts;
- h. To continue to enhance the quality of the city's public realm and improve access into and within the City Centre for all the city's users and ensure that the City Centre is attractive to all age groups including children, young people and families;
- i. To facilitate the safe, efficient and sustainable movement of people to, from and within the City Centre.

5.1.4. In addition to the above, the following objectives are relevant:

- Objective 13.14: Waterfront Amenity Areas
- Objective 13.15: Priority Public Realm Improvement Projects
- Objective 13.25: Development of Docklands
- Objective 13.26: North Docks

Objective 13.28: Docklands Public Realm.

## **5.2. North Docks Local Area Plan 2008 (expired 2011):**

This document, although expired since 2011 has not been replaced. Many of the objectives are considered to remain valid and have informed policies of the City Development Plan. The subject site is located to the south west area of the identified plan area within the Penrose Quay / Alfred Street area comprising three urban blocks. The area is identified as a natural eastward expansion of the City Centre.

## **5.3. Natural Heritage Designations**

The site is not located within any designated site. The closest Natura 2000 site are the Cork Harbour SPA (site code 004030) while lies approximately 2.5km to the south east of the site and the Great Island Chanel cSAC (site code 001058), which lies approximately 8.5km to the east of the site.

## **6.0 The Appeal**

This is a third party appeal from Mr. Brian O'Mahony.

### **6.1. Grounds of Appeal**

The grounds of appeal reflect those issues raised during the Planning Authority's assessment of the proposed development and are summarised as follows:

- The development contradicts the North Docks Local Area Plan.
- The amenity value of proposed bedrooms will be compromised as the vessel will be moored directly against the Quay wall.
- Issues raised in relation to the vehicular set down area.
- Impact on protected structures by reason of proximity.
- The development will impact on the pedestrian amenity of the area and obstruct the future provision of a cycle path.



## 6.2. Observations

There were two observations submitted, however, one was deemed invalid.

### 6.2.1. Mr. Conor Lee:

Mr. Lee of Times Square Construction Operations Ltd. is contracted to purchase the Port of Cork Customs House and bonded warehouses site at Custom House Quay and is involved in the promotion of the Port of Cork site as an internationally significant commercial and cultural development. While the observer supports intelligent, sustainable and meritorious development he has concerns in relation to the proposed development, as reflected in the appeal submitted. The issues raised are summarised as follows:

- The development conflicts with development plan policies in terms of zoning, pedestrian links, River Use and Management Plan, the standard of accommodation and the nature of the temporary permission.
- Roads and traffic issues raised as a concern and a Traffic & Transport Observation report is included.
- Visual impacts on heritage and conservation issues raised. The development will require modification to the quay wall and provision of gangways involving works to the riverine environment and as such, an intertidal survey should have been carried out by a suitably qualified archaeologist.
- It is considered that the proposal to accommodate an imported river barge as hotel accommodation will promote an inappropriate activity in this key navigable and berthing channel of the River lee and Port of Cork network and deny any sustainable long-term initiatives in the area.
- The Irish Maritime Development Office plans seek to promote the maritime resource and amenity of the area as a Special Development Zone with Custom House Quay as the strategically important centre. The proposed development would directly conflict and contradict with this aspiration.

## 6.3. Applicant Response

The first party has responded to the third party observation as follows:

- It is agreed that the proposed uses are not uniquely water based activities and consider this to be one of the strengths of the proposed development.
- The development will provide an alternative and unique dining and accommodation experience in the context of Cork. Similar facilities are successful and add character to many European cities.
- It is considered that the use falls within the definition of recreational use. There is no restriction on the definition in the City Development Plan restricting the zoning definition to active physical recreation.
- The proposed development does not impede other amenity or transport uses of the river or waterway and therefore does not conflict with the zoning objective.
- The location and design principles of the set-down area have been agreed with Cork City Council Roads & Traffic Department.
- The set-down area is located c30m from the existing crossing point at Custom House Street and there is space to provide a c7m pedestrian footpath between the set-down area and the quayside. There will be no negative impact on pedestrian amenity.
- The River Use and Management Plan was proposed in the 2009 Cork City Development Plan and is yet to materialise. It is considered that the temporary permission for the use of a small area of the City Quays could not reasonably be considered to undermine or compromise the objectives of the future River use and Management Plan. It is considered unreasonable to sterilise the development potential of the quayside for a temporary use pending the completion of a plan which has been proposed but not delivered for over 8 years.
- The proposed 'Botel' would not come within the regulatory remit of Fáilte Ireland and therefore does not set a precedent for accommodation in Cork City. The 'Botel' is required to comply with Fire Safety Regulations which will ensure appropriate health and safety standards.

- In terms of the temporary permission, it is submitted that the impact of the development on amenities of the area can reasonably be assessed at this stage to warrant a permission.
- It is submitted that the three-year permission is unreasonably short given that the securing and purchase of a vessel and agreeing details with Cork City Council are likely to take 9-12 months. It is submitted that a temporary permission of 7 years from the date of operation would be the minimum viable timeline. It is requested that the Board amend condition 2 of the permission.
- In relation to traffic and road safety issues, it is submitted that the site is accessible by public transport and is in a walkable environment on the edge of Cork City. It is also noted that the traffic counts included in the submitted report do not reflect the traffic volumes at the site.
- No parking is proposed in accordance with the City Council policy and illegal parking is a city wide issue and a matter for parking law enforcement and not planning. The detail of the set-down was agreed in principle with the City Council and it is appropriate to finalise the details before the commencement of the development.
- In relation to the concerns regarding visual impact on Heritage and Conservation, it is considered illogical to argue that the mooring of a ship alongside a quayside and buildings specifically designed to serve ships would have a negative impact on the protected structures.
- In terms of the issues regarding archaeology, it is submitted that the physical works involved are minor with no impact on the sea bed. It is therefore considered that there is no risk of negative impact on marine archaeology.
- It is noted that the observer references his clients' aspirations for the Custom House site, which are not yet the subject of a live planning application. It is considered that the granting of a temporary permission for the proposed development will not compromise or conflict with the policy ambitions of the ISSC presentation.

## 6.4. Planning Authority Response

The PA has responded to this third party appeal, advising no further comments.

## 7.0 Assessment

Having regard to the relevant policies pertaining to the subject site, the nature of existing uses on and in the vicinity of the dockland site, the nature and scale of the proposed development and the nature of existing and permitted development in the immediate vicinity of the site, I consider that the main issues pertaining to the proposed development can be assessed under the following headings:

1. General Compliance with the Cork City Development Plan & General Development Standards
2. Third Party Issues
  - Maintenance Requirements
  - Amenity Value of Bedrooms
  - Roads & Traffic Issues
3. Other Issues
  - Impact on Heritage & Protected Structures
  - Impact on Residential and Visual Amenities
  - Impact on Services
  - Temporary Permission
  - Development Contributions
4. Appropriate Assessment

### 7.1. Compliance with the Cork City Development Plan:

7.1.1. The development before the Board proposes the mooring of a vessel for use as a restaurant and hotel at Penrose Quay in Cork. The subject site comprises part of the quayside and the north channel of the River Lee, to the north of Custom House Quay. The river part of the site is zoned ZO 19 Rivers / Water Bodies

Protection where it is the stated objective of the council “to protect and provide for the appropriate recreational/amenity and transport use of the river/waterways.” Part 15.27 of the Plan advises that ‘Rivers and waterways within the Cork City area are important to the city for their intrinsic qualities as open spaces and also for their landscape value, natural heritage value, recreational value and visual value. Areas zoned for this purpose are protected as rivers / water body open spaces and for appropriate water-based recreational / cultural / river transport activity. Proposals for permanent or temporary commercial leisure uses will be open for consideration. The River Management and Use Plan, when completed, will provide a framework for the long term management of the River Lee in Docklands for recreation, environmental other activities.’

7.1.2. The Cork City Development Plan describes commercial leisure facilities as those run on a profit basis and include hotels and restaurants. Section 3.37 of the Plan notes that such facilities generate a high level of movement and are best located in places that offer the highest level of accessibility to a range of transport modes, in particular public transport. Section 3.38 of the Plan also notes the necessity to control the location, size and activities in order to safeguard residential amenity, environmental quality and the established character and function of parts of the City Centre.

7.1.3. The land part of the subject site is located within an area zoned ZO 2, City Centre Commercial Core Area (CCA). It is the stated objective of this zoning “to support the retention and expansion of a wide range of commercial, cultural, leisure and residential uses in the commercial core area, apart from comparison retail uses.” Part 15.8 of the Plan submits that ‘the Commercial Core Area reflects the commercial and employment zone of the City Centre extending from the City Centre Retail Area (ZO 1). All uses are permitted throughout the CCA, except comparison retail uses, which are restricted to the City Centre Retail Area unless they serve a local need only.

7.1.4. In relation to the development strategy for the docklands the City Development Plan, at Section 2.23 submits that the redevelopment of the North and South Docks as a major new mixed use quarter is the most significant sustainable development opportunity for the City Region. The core strategy states that the delivery of Docklands development is critical to the city achieving its population and

employment targets. Having regard to the above relevant zoning objectives afforded to the subject site, it is considered that the principle of the proposed development is acceptable.

7.1.5. Chapter 13 of the Plan deals with the City Centre and Docklands and includes a number of objectives relevant to this area. In terms of the strategic objectives for the area, Objective 13.1 includes

- b. Facilitate the orderly expansion of the City Centre eastwards into Docklands and support the progressive development of Docklands as a sustainable urban quarter to complement the continued vibrancy and primacy of the City Centre;
- e. Continue to develop Cork City Centre as a high quality, vibrant and adaptable location for the growth of indigenous and international business;
- g. To develop and establish the City Centre as an international destination for tourism, business, culture, leisure and arts;

In terms of the above, I am satisfied that the proposed development accords with the strategic objectives for the Docklands.

7.1.6. Objective 13.14 seeks to protect the identified waterfront amenity area from development within 10m of the quayside. The objective does however, facilitate small scale development within the space which relates to the use of the river or quayside space and can ensure adequate amenity space to facilitate passive recreation. The 'Waterfront Amenity Route on Northside of North Channel' is identified in Objective 13.15 as a priority public realm improvement project. In terms of the above objectives, and having regard to the information presented in support of the proposed development and the internal reports from the City Council departments, I am satisfied that the proposed development, in principle is acceptable.

7.1.7. Objective 13.26 deals with the North Docks and states as follows:

The North Docks, including the railway station lands and waterfront areas, will be developed in accordance with the vision set out above and indicated on Maps 1 and 2 of Volume 2. A comprehensive Masterplan, in line

with the Development Plan policy and informed by the Docklands Public Realm Masterplan will be required to guide development of the station and adjoining waterfront lands and Cork City Council will work with the landowners and the transport stakeholders to secure this.

The key issue in my opinion, relating to the proposed development is the potential impact the development will have on the objective to implement the Waterfront Amenity Route project. Does the development as proposed, impact on the ability to deliver this project as provided for in Objectives 13.14 and 13.15? I have considered all of the information presented both in support and against the proposed development and I am satisfied that the Planning Authority approach to grant a temporary permission is both reasonable and acceptable. In principle, I would consider that the development will not affect the delivery of this or other infrastructural projects, but accept that the operation of the restaurant / hotel for a period of three years will offer the appropriate evidence to determine the impact on the amenities of the area and the planned future infrastructure for the Docklands area. As such, I have no objections to the proposed development in terms of compliance with the Cork City Development Plan.

## **7.2. Third Party issues:**

### Maintenance requirements:

7.2.1. The third party has submitted concerns regarding the necessity for the type of vessel proposed to be dry-docked on a bi-yearly basis in order to carry out critical maintenance. The appeal references the Planning Authority policy to improve pedestrian connectivity between the North and South Docks and suggests that pedestrian bridges would make it impossible for the vessel to be leave the dock. In response, the Planning Authority notes that any future infrastructure in the Docklands area, including bridges, will likely facilitate vessels travelling further upstream.

7.2.2. I consider that this matter is not particularly relevant in the consideration of this proposed development and will be a matter for the owner / operator of the 'Boatel' if permitted. There is no pedestrian bridge design proposed nor a timeframe in place for the delivery of this infrastructure. I would suggest that the issue of access

to the river and its channels will be appropriately addressed when the infrastructure is at design stage.

Amenity Value of the proposed bedrooms:

7.2.3. The third party appellant has raised concerns regarding the mooring of the vessel against the quay wall and bedrooms facing onto the wall will be affected by the rise and fall of the tide. The Board will note that the cabins on the vessel do not meet the current minimum standards as set out by Failte Ireland for the registration of hotels. The proposed project has been rebranded as a 'Boatel' and as such, the requirements of Failte Ireland registered hotel rooms do not need to be met. I do note Failte Irelands support for developments which seek to address the capacity issues and provide cost-effective accommodation.

7.2.4. There is no doubt but that the quality of the proposed accommodation is likely to be compromised as described above. However, I would also note the unique accommodation offer being proposed. In light of the fact that the vessel to be moored has been previously used for river cruises, the accommodation offer can be considered acceptable. I am satisfied that the 'Boatel' won't be for everyone, and in the absence of any comparison, I would concur with the Planning Authority approach in terms of a temporary planning permission. Should the Board be minded to grant permission in this instance, I would recommend that temporary permission be considered in order to fully consider the amenity issues arising from the operation of the 'Boatel'.

Roads & Traffic Issues:

7.2.5. I note the concerns raised in relation to roads and traffic issues arising from the proposed development. In particular, the Board will note that the development will provide a set-down / loading area adjacent to the quay to facilitate the dropping off of guests. I note the concerns of the Road Design and Transport & Mobility Sections of Cork City Council in relation to the proposed set down area. In the course of the Planning Authority assessment, I note that minor amendments were made and that the Roads sections concluded that the outstanding issues could be addressed by way of condition.

7.2.6. Part G of the City Development Plan deals with Car & Cycle Parking Requirements for Development Management. The City Development Plan provides



maximum standards, which are clearly set out and unambiguous. Paragraph 16.107 clearly provides that 'these standards are maximums in order to constrain car trip generation and promote patronage of "green" modes of transport.'

7.2.7. The subject site is located within Zone 1 where the section 16.108 of the Plan states:

Parking Zone 1 is generally inner Cork City, which includes the City Centre. Zone 1 is currently accessible by public transport and is a walkable environment. It is policy to constrain parking within the City Centre below the maximum level of provision indicated in the table in order to reinforce the pedestrian priority area and to cause a material shift to non-car transportation. Provision of additional commuter parking within this area will not generally be permitted. In exceptional cases a small amount of parking may be allowed on site (subject to mobility management plans) as an incentive to promote renewal/redevelopment of large strategic sites. This will only be feasible where the location and configuration of sites is such as to allow parking without causing undue local congestion or negative impact on pedestrian movements.

7.2.8. In terms of the proposed development, no car parking is proposed. The site lies in proximity to Kent Station and the Bus Eireann station and at a busy junction where the N8 meets the N27 at the Michael Collins Bridge. Michael Collins Bridge is a four lane carriageway. There is no immediate car parking in the vicinity of the site and the closest car park is approximately 200m to the west. I would note that car parking at Cork City hotels is generally difficult and very few provide on-site parking. It is the policy of the City council to constrain parking within the city centre below the maximum level of provision indicated in Chapter 16 Table 16.8, in order to reinforce the pedestrian priority area.

7.2.9. At this point I would also note that the vessel plan submitted in support of the proposed development includes a bar area of 74m<sup>2</sup> and a lounge area of 135m<sup>2</sup>, which combined can accommodate 151 persons. I am unclear if these bar areas will be open to the public independently of the restaurant. If it is the case that they are, then there are implications for the car parking requirements for the overall

development. I do note however, that the applicant, in response to a further information request advised that the max occupancy of the ship will be 200.

7.2.10. The Plan requires the provision of 1 space for 150m<sup>2</sup> of restaurant and 1 for 300m<sup>2</sup> of public houses, including hotel bars. In terms of the accommodation requirements, the Plan requires 1 space per two hotel / guest house rooms. As it has been determined that the development cannot be considered a hotel, and given the unique nature of the development, there is no real guidance in terms of parking requirements. Overall, I am satisfied that the proposed development is acceptable and in particular, consider that the site is well located in terms of public transport options and is within walking distance of the City Centre.

### 7.3. Other Issues

#### Impact on Heritage & Protected Structures:

7.3.1. The site is located outside any Architectural Conservation Area and there are no protected structures within the site. There are a number of protected structures associated with the Port of Cork - Custom House Quay to the south and City of Cork Steampacket Offices to the north. It is contended by the third party appellant that the development will have a negative impact on the architectural and archaeological amenities of the port area. I would not agree. The development proposes the mooring of a vessel at Penrose Quay which is acceptable, in my opinion.

#### Impact on Residential & Visual Amenities:

7.3.2. The subject site is located in a predominantly commercial area in the docklands of Cork City. To the south west of the site, there is a hotel and to the south of Albert Quay, on Albert Road, are residential properties. To the north of the site, lies Penrose Wharf with further commercial developments and Kent Station to the north east. There is little residential development in close proximity to the site and as such, I am satisfied that the development, if permitted will have no significant on any residential amenities in this area.

7.3.3. In terms of the visual amenities of the area, the Cork City Development Plan, at Chapter 10, deals with Landscape and Natural Heritage and where sections 10.22-10.31 are relevant. Objective 10.6 of the plan deals with Views and Prospects and states that there will be presumption against development that would harm,

obstruct or compromise the quality or setting of linear views of landmark buildings, panoramic views, river prospects, townscape and landscape views and approach roads.

7.3.4. Section 10.24 of the plan identifies ‘a number of existing views and prospects of special amenity value to the city. These special views are of strategic significance to Cork City and the City Council will seek to protect and enhance them where appropriate.’ In addition, section 10.25 of the Plan states that ‘there will be a presumption against any development that threatens to obstruct views or compromise the quality or setting of these views. In addition to the strategic views and prospects of special amenity value, local views of significance are also very important to the character and legibility of neighbourhoods.’ There are a number of views which are identified in the plan which may be affected by the proposed development as follows:

- LT26: View from High Street Bridge to St. Luke’s Townscape
- LT27: View from Old Blackrock Road to St. Luke’s Townscape
- LT28: View from Summerhill South to St. Luke’s Townscape
- TP3: View from Victoria Road to Trinity Presbyterian Church

7.3.5. Overall, and having regard to the context of the subject site together with the nature of the proposed development I am satisfied that the development will have little or no significant visual impact on the docklands area of Cork City. I am further satisfied that the development can be accommodated within the context of the site in a manner which is acceptable in terms of visual impacts.

Impacts on Services:

7.3.6. The proposed development will connect to the public services and the Board will note that there are outstanding matters due to the fact that the final model of vessel to be used for the development has not been definitively determined. The Drainage Department of Cork City Council has advised that conditions should be attached to any grant of permission requiring agreement prior to the commencement of development. No objection is therefore advised. I would note that there does not appear to be an issue in terms of capacity in the existing infrastructure and having regard to the unique nature of the proposed development, I am satisfied that the

proposed development is acceptable, subject to compliance with the stated conditions.

Temporary Permission:

7.3.7. The City Council granted a temporary permission for a period of three years. The applicant has requested that this term be increased to seven in order to ensure the viability of the development. I have considered this matter carefully and while I have no objections in principle to the proposed development, I agree with the Planning Authority that three years is an appropriate timeframe. Should the Board be minded to grant permission in this instance, I recommend that three years be applied to the temporary permission.

Development Contributions:

7.3.8. The Board will note that the Planning Authority did not include a condition requiring the payment of development contributions for the proposed development. Notwithstanding the nature of the proposed development, being the mooring of a vessel to the quay wall, the development will require support from existing public infrastructure and should therefore be required to make a contribution. I note that the General Development Contribution Scheme provides for three classes of Public Infrastructural Development as follows:

Class 1 – Roads, transportation infrastructure and facilities

Class 2 – Water and drainage infrastructure and facilities

Class 3 – Parks, recreation, amenity and community facilities

In terms of Class 2, the Scheme, in Note 4, advises that ‘the development contribution is required for capital expenditure and therefore costs incurred for such matters as connections to such services are not included in the development contributions and are subject to separate connection fees.’

7.3.9. Section 1.7 of the Scheme deals with Exemptions and Reductions and Table 5 identifies the % Reductions in respect of specified categories of development. As noted, it is my opinion that a temporary permission for the proposed development should be considered in order to provide an opportunity to fully assess the impacts, if any, of the development on a number of factors including amenities, roads and the

planned future infrastructure for the Docklands area. In this regard, the Scheme provides for the following

Temporary permissions up to 3 years***	67%
Temporary permissions up to 5 years ***	50%
Temporary permissions up to 10 years***	34%

\*\*\* Subsequent similar temporary planning permission to be charged full rate of development contributions.

7.3.10. Should the Board be minded to grant permission in this instance, a condition requiring the payment of Development Contribution should be attached. The amount of the contribution should be determined by the Planning Authority subject to the relevant % reduction for the temporary permission. In default of agreement, the matter should be referred to the Board for determination.

#### 7.4. **Appropriate Assessment**

7.4.1. The closest European Sites to the subject site are the Cork Harbour SPA (site code 004030) approximately 2.5km to the south east, and the Great Island Chanel cSAC (site code 001058) approximately 8.5km to the east. The applicant, in support of the proposed development, submitted an Appropriate Assessment Screening Statement and the Board will note that the Planning Authority also carried out AA Screening for the development. Having regard to the nature of the proposed development, together with the minor nature and scale of the works proposed, I am satisfied that the proposed development, individually or in combination with other plans or projects would not adversely affect the integrity of the European Site, Cork Harbour SPA (Site Code 004030) or Great Island Channel cSAC (Site Code 001058) in view of the sites Conservation Objectives and that no Appropriate Assessment issues arise.

### 8.0 **Recommendation**

I recommend that planning permission be granted for the proposed development for the following stated reasons.

## 9.0 Reasons and Considerations

Having regard to the provisions of the current Cork City Development Plan, 2015-2021, the pattern of existing and permitted development in the vicinity and having regard to the information submitted as part of the planning application together with the information submitted in the appeal, the Board is satisfied that, subject to compliance with the following conditions, the proposed development generally accords with the policy requirements of the relevant plans as it relates to dockland developments, would be acceptable in principle and would not injure the existing visual and general amenities of properties in the vicinity of the site, or give rise to significant roads and traffic issues. It is concluded that the development, would be acceptable in terms of 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 on the 13<sup>th</sup> day of April and the 13<sup>th</sup> day of June 2017, 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.

In default of agreement, the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

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

2. This permission shall be for a period of three (3) years from the date of this order. The vessel shall then be removed unless, prior to the end of the period, permission for its retention shall be obtained.

**Reason:** To enable the planning authority to consider the impact of the development over the stated time period and in the interests of the proper planning and sustainable development of the area.

3. Prior to the mooring of the ship at Penrose Quay, the final details, including full plans and particulars of the ship, shall be submitted for the written agreement of the Planning Authority. The scale and capacity shall not exceed those of the plans and particulars submitted to the Planning Authority on the 13<sup>th</sup> day of June 2017.

**Reason:** To clarify the permission granted.

4. The proposed set-down area, together with any amendments to the positioning of street furniture, landscaping and signage, shall be designed in accordance with the requirements of the Planning Authority Road Design Section. Prior to the commencement of any development on the site, full details shall be submitted for the written agreement of the Planning Authority and all works shall be completed at the developers expense, prior to the mooring of the vessel at Penrose Quay.

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

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. No speakers or amplified music or TVs shall be located externally and noise from the development shall not exceed levels of 55dB(A) <sub>Leq 15 mins</sub> between 0800 – 2200 hours and 45dB(A) <sub>Leq 15 mins</sub> between 2200 and 0800 hours.

**Reason:** In the interests of protecting the existing amenities of the area.

7. 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 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, including the percentage reduction relating to the temporary nature of this permission, 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.

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A. Considine  
Inspector  
24<sup>th</sup> November, 2017