



An
Bord
Pleanála

Inspector's Report ABP-300263-17

Development

Permission and retention sought for 60 car parking spaces, coach parking, taxi shelter, taxi set-down area and lamp stands. Works to include the retention of 20 car parking spaces and associated ground works and lamp stands. All associated site development, landscaping and boundary treatment works above and below ground.

Location

Citywest Hotel & Conference Centre, Saggart, Co. Dublin.

Planning Authority

South Dublin County Council

Planning Authority Reg. Ref.

SD17A/0126

Applicant(s)

Cape Wrath Hotel Ltd.

Type of Application

Permission and Retention

Planning Authority Decision

Grant permission w. conditions

Type of Appeal

Third Party

Appellant(s)

Tony Kearney

Observer(s)

None

Date of Site Inspection

14th February 2018

Inspector

Ciara Kellett

1.0 Site Location and Description

- 1.1. The appeal site is part of the Citywest Hotel complex which lies to the south of the N7 road and c.15km south-west of Dublin City centre. It is located c.0.5km north of Saggart Village and c.1.8km east of the centre of Rathcoole.
- 1.2. The Hotel complex comprises Citywest Hotel, the Aparthotel, the Conference Centre and a Leisure centre as well as the Golf Club. Access to the complex is off Garters Lane which leads to Saggart Village. Saggart LUAS stop is on Fortunestown Lane c.300m to the north-east of the hotel campus entrance and bus stops are adjacent to the entrance on Garter's Lane.
- 1.3. Three main car parks lie to the south of the complex. All three are accessed from a roundabout on Garter's Lane. The appeal site lies to the north of the carpark on the west side of the lane identified as carpark 'C'. It is currently a hard surfaced area separated from the rest of the car park by temporary bollards. A hard surfaced helipad is located between the proposed parking site and the hotel. There is also a shed for the storage of helicopters to the north-west of the site, adjacent to the helipad. The area within the red line is stated as being 0.591Ha.
- 1.4. Land use adjacent to the overall complex is of mixed use. The mix includes residential, educational and retail uses. Residential development in the vicinity comprises a mix of apartment developments and a number of one-off dwellings. The appellant resides in a residential development off Garter's Lane.
- 1.5. Appendix A includes maps and photos.

2.0 Proposed Development

- 2.1. The proposed development is for permission for 40 car parking spaces and retention permission for 20 car parking spaces. It also includes permission for/retention of lamp stands.
- 2.2. In addition, it is proposed to provide an 11 space taxi rank and a taxi call point and shelter, as well as a coach pull in area to the north of the site. It is proposed to remove the helipad area and replace it with a landscaped area which will lie between the parking and the hotel.

3.0 Planning Authority Decision

3.1. Decision

The planning authority decided to grant permission subject to 13 standard conditions.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Planner's Report is the basis for the Planning Authority decision. It includes:

- Notes zoning is 'OS – To preserve and provide for open spaces and recreational amenities'. Car parking is open for consideration with a caveat that the parking is provided for small scale or recreational purposes. Considers proposal broadly acceptable in principle, subject to compliance with policies and objectives.
- Notes most recent refusal for permission by the Board (Ref. PL06S.246719) for the increase in capacity of the conference centre from 4,161 up to 6,000 persons and for the provision of public concerts etc. Notes reasons for refusal related to the potential significant negative impact on the residential amenities of the area due to traffic congestion, and noise and efficiency of the national road network.
- Refers to the parent permission for the convention centre (ABP Ref. PL06S. 227236) and the grant of permission by the Board, having regard to the reduced scale of the facility from 6,000 to 4,161 delegates and the granting of the Railway Order for the extension of the red LUAS line to Saggart. Noted a condition requiring the applicant to enter into a Section 47 agreement to restrict the maximum number of delegates to 4,161.
- Notes applicant has not provided any rationale for the increase in parking and the request for Further Information by the Roads Department.
- Considers the replacement of the helipad with a landscaped area will be of benefit and is acceptable. Further considers the taxi rank and call point close

to the entrance to the hotel will improve pedestrian safety and movement in the area.

- Refers to fact site is located within the zone of archaeological potential of Saggart Village and considers relevant conditions should be applied.
- Notes Water Services section seek Further Information.
- Requests Further Information from applicant in relation to rationale for spaces and a Traffic Impact Assessment, particularly with regards to the complex planning history of the site and the most recent refusal of permission by the Board, as well as surface water layouts, SUDS, flooding, and drainage.
- Applicant responded submitting a response to the traffic queries from a Traffic Consultant and an Engineering Report addressing the services queries.
- The applicant's response provided an overview of the parking provision of the campus, particularly as a number of changes had been made over the last two years with respect to compliance with previous planning permissions. The applicant noted that in November 2014 there were 1,895 car parking spaces and following compliance works there were 1,769. Considers the 60 extra would represent a 3.4% increase compared to the existing permitted total which is less than the total in November 2014.
- Planner notes that the extra parking equates to a 3.4% increase, and notes that the applicant did not submit a full Traffic Assessment but referred to a 2015 assessment prepared for the most recent refusal by the Board. Notes the applicant states that it will not lead to an increase in capacity or change to facilitate live music events, and that the impact on the surrounding roads will be minimal. Notes report received from the Roads Department which states no objection subject to conditions.
- Engineering Report submitted and no objection of Water Services subject to conditions.
- Recommends permission is granted subject to conditions.

The decision is in accordance with the Planner's recommendation.

3.2.2. Other Technical Reports

- **Roads Department:** Following response to Further Information, no objection subject to conditions.
- **Water Services Section:** Following response to Further Information, no objection subject to conditions.
- **Parks/Public Lighting/EHO:** No report received

3.3. Prescribed Bodies

- **Irish Water:** No objection subject to conditions.

3.4. Third Party Observations

One submission was received by the appellant. The issues raised will be addressed in Section 6 below.

4.0 Planning History

There is an extensive planning history associated with the development of the Citywest Hotel and Conference Centre. The most recent and relevant applications are summarised below.

- **ABP Ref. PL06S.246719, SDCC Reg. Ref. SD15A/0381:** Permission refused by the Board January 2017 to increase capacity to 6,000 patrons for public concerts, 171 car parking spaces, taxi set down and improvement works to the junction of Garter's Lane and Fortunestown Lane. The Board was not satisfied that the proposed development would not have a significant negative impact on the residential amenities of the area by reason of serious traffic congestion and evening and night-time noise.
- **SDCC Reg. Ref. SD13A/0150:** Permission was granted in April 2014 for the retention of internal modifications to provide for 277 hotel bedrooms instead of the permitted 99.
- **ABP Ref. PL06S.238971, Reg. Ref. SD10A/0150:** Permission granted in September 2011 for retention of hardcore fill and permission for the development of the hardcored area as an overflow carpark consisting of 347 car parking. This is the existing car park 'C' – the appeal site is just to the north of this site.

- **ABP Ref. PL06S.227236, Reg. Ref. SD07A/0294:** Permission was granted in July 2008 for the completion of the partially developed convention centre for 4,161 patrons and car parking. This permission restricted the uses to those of a convention centre, and permitted a maximum of 4,161 persons and required the applicant to enter into a Section 47 agreement. Condition 4 is of relevance to the subject appeal. It states:

The maximum number of patrons within the convention centre complex shall not exceed 4,161 persons at any one time (that is, the development the subject of this application and the existing conference facility taken together). Prior to recommencement of development, the developer shall enter into a legally binding agreement with the planning authority under Section 47 of the Planning and Development Act 2000 in this regard.

Reason: *To ensure that the associated traffic movements associated with events in the complex do not unduly impact on the carrying capacity of the road network in the area (including national roads) and that car parking is adequate.*

- **Reg. Ref. SD06A/0962:** Permission granted in March 2007 for an extension to the hotel for 99 bedrooms and relocation of parking.
- **ABP Ref. 215210, Reg. Ref. SD05A/0086:** Permission was refused by the Board in May 2006 for a convention centre incorporating a main hall with seating for up to 6,000 people with a temporary stage. The Board considered that such a major facility should be located in a core commercial area, such as city centre or major town centre, in order to avail of a range of public transport options and full access to supporting facilities (recreational, accommodation and cultural).

Earlier planning applications were for the hotel itself, extensions to the hotel, the conference centre, leisure centre and the Aparthotel.

5.0 Policy Context

5.1. South Dublin County Council Development Plan 2016 – 2022

The site is zoned 'OS - To preserve and provide for open space and recreational amenities'.

Chapter 4 refers to Economic Development and Tourism, Chapter 6 to Transport and Mobility, and Chapter 11 to Implementation.

Policies in Chapter 4 with respect to Tourism state:

ET5 Objective 1:

To support the development of tourism infrastructure, attractions, activities and facilities at appropriate locations subject to sensitive design and environmental safeguards.

ET5 Objective 2:

To direct tourist facilities into established centres, in particular town and village centres, where they can contribute to the wider economic vitality of urban centres.

Section 6.4.4 of Chapter 6 refers to Car Parking. **Policy TM 7** states:

It is the policy of Council to take a balanced approach to the provision of car parking with the aim of meeting the needs of businesses and communities whilst promoting a transition towards more sustainable forms of transportation.

Land Use zoning in Chapter 11 states that hotels and car parking are open for consideration in OS zones.

5.2. Natural Heritage Designations

The Glenasmole Valley SAC (Site Code 001209) is c.6km to the south-east of the site. The Rye Valley/Carton SAC (Site Code 001398) is c.9km to the north-west of the site.

6.0 The Appeal

6.1. Grounds of Appeal

A third party appeal has been lodged against the Planning Authority's decision to grant permission. In summary, it states:

- The proposal would result in parking in excess of 400 spaces (including car, coach and taxi parking). An Environmental Impact Assessment is required.
- Refers to the 2007 planning permission which requested the applicant to enter into a Section 47 agreement. Considers this agreement has been disregarded. Of the opinion that it is non-existent today for the new owners/management, as no Section 47 agreement appears anywhere on public record.
- Considers the new management/owners are using both the old and new convention centres concurrently for different events which is causing major traffic issues in Saggart Village.

6.2. Applicant Response

The First Party has responded to the appeal. In summary, it states:

- No valid grounds of appeal have been cited by the appellant. Two issues have been raised relating to the requirement for an Environmental Impact Assessment (EIA) and a Section 47 agreement which was made in relation to the convention centre. Neither issues are pertinent, and the appeal is considered to be vexatious and without substance. Request the Board to dismiss the appeal under Section 138(1)(a)(i) and 138(1)(b)(i) of the Act.
- States that in the event the Board do not dismiss the appeal, they have addressed the points.
- With respect to the need for an EIA, notes that at no point did the Council express concerns with the need for an EIA.

- Considers that the appellant does not understand the threshold for the type of development which requires an EIA. The appellant has attempted to inflate the amount of spaces through inclusion of coach parking and taxi spaces.
- Refers to Schedule 5, Part 2, 10(b)(ii) of the Planning and Development Regulations which outlines that car parking providing more than 400 spaces, other than a car park provided as part of, and incidental to the primary purpose of a development requires an EIA.
- Considers that all the permitted car parking spaces are clearly incidental to the primary purpose of the complex, and therefore the threshold is not applicable.
- Notes that the Board decided an appeal in relation to the capacity of the Convention Centre which included the provision of significantly more car parking spaces where EIA was not considered to be an issue.
- Considers the Section 47 agreement is not relevant to the subject application as it was entered into with regard to the parent permission for the Convention Centre (ABP Ref. 06S.227236).
- Notwithstanding this, notes that a Section 47 agreement was signed in April 2013 between the receiver for Citywest Complex and SDCC.

6.3. Planning Authority Response

The Planning Authority responded confirming the decision and consider issues raised have been covered in the planner's report.

7.0 Assessment

The main issues in this appeal are those raised in the grounds of appeal and I am satisfied that no other substantive issues arise. The issue of appropriate assessment also needs to be addressed. The issues can be dealt with under the following headings:

- Procedural Matters
- Requirement for an Environmental Impact Assessment

- Appropriate Assessment

7.1. Procedural Matters

- 7.1.1. The applicant considers that the appeal is vexatious and requests the Board to dismiss the appeal. The applicant considers that no valid grounds have been cited. The appellant cites two main grounds for the appeal – the first is the requirement for an EIA and secondly the Section 47 agreement.
- 7.1.2. The Section 47 agreement was made on foot of the parent permission ABP Ref. PL06S.227236 (see Section 4 above – Planning History). The applicant states in the response to the appeal, that a Section 47 agreement was entered into between the receiver for Citywest Complex (prior to the Applicant purchasing the property) and SDCC.
- 7.1.3. As the Board has no role in enforcement, I consider that this is not a matter for the Board and do not consider that this is grounds for an appeal on the subject application.
- 7.1.4. However, I note that the validity of the appeal is a matter for the Board to determine. Notwithstanding my opinion on the Section 47 agreement, in my view the appellant has appropriately exercised his right to appeal with respect to the issue of whether or not the subject application should have been accompanied by an Environmental Impact Assessment Report (EIAR). I am satisfied that the appellant has expressed legitimate concerns in respect of the requirement for an EIAR. The appellant is of the opinion that an EIAR should have been submitted with the application as he considers that the parking in this section of the complex will exceed 400 spaces when the coach parking and taxi rank are taken into account. I consider that this is acceptable grounds of appeal and will address this below.

7.2. Requirement for an Environmental Impact Assessment

- 7.2.1. The appellant states that the applicant refers to a total of 397 car parking spaces in Car Park C, including the additional new car parking spaces proposed. The appellant considers that the 17 coach parking spaces would be equivalent to 64 extra car parking spaces resulting in in excess of 400 spaces, thus exceeding the limit for a requirement for an EIA.

7.2.2. The current proposal is for 60 car parking spaces, 11 taxi rank spaces and 1 coach set down space. Schedule 5 of the Planning and Development Regulations which lists developments that require an EIA, refers to parking. Part 2, 10(b)(ii) states:

Construction of a car-park providing more than 400 spaces, other than a car-park provided as part of, and incidental to the primary purpose of, a development.

7.2.3. The subject car park is provided as part of, and incidental to the primary purpose of the hotel complex. It is not standalone and therefore this threshold is not applicable.

7.2.4. I am satisfied that the development is therefore not of a type listed in Schedule 5 and does not require an EIA, nor does it require to be assessed for sub-threshold development.

7.2.5. In conclusion, I am satisfied that an EIA of the proposed development is not required and the applicant is not obliged to submit an EIAR.

7.3. **Appropriate Assessment**

7.3.1. Having regard to the nature and scale of development proposed and to the nature of the receiving environment, 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**

I recommend that planning permission should be granted subject to conditions, for the reasons and considerations as set out below.

9.0 **Reasons and Considerations**

Having regard to the minor increase in parking proposed, it is considered that subject to compliance with the conditions set out below, the development would not seriously injure the amenities of the area and would be acceptable in terms of traffic safety.

The development for which permission is sought 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 on the 29th day of September 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. Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works.

Reason: To ensure adequate servicing of the development, and to prevent pollution.

3. The developer shall facilitate the preservation, recording and protection of archaeological materials or features that may exist within the site. In this regard, the developer shall -

(a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development,

(b) employ a suitably-qualified archaeologist who shall monitor all site investigations and other excavation works, and

(c) provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove.

In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.

Reason: In order to conserve the archaeological heritage of the site and to secure the preservation and protection of any remains that may exist within the site.

4. The landscaping scheme shown on drg. no. Br.08-DR-205, as submitted to the planning authority on the 21st day of April, 2017 shall be carried out within the first planting season following substantial completion of external construction works.

All planting shall be adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

Reason: In the interest of visual amenity.

5. 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.

6. The roads and traffic arrangements serving the site shall be in accordance with the detailed requirements of the planning authority for such works and shall be carried out at the developer's expense. Details in this regard shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

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

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 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.

Ciara Kellett
Inspectorate

19th February 2018