



An
Bord
Pleanála

Inspector's Report ABP-301170-18

Development	Permission for the demolition of existing dwelling shed and boundary wall and the construction of 10 no. student apartments ranging in size between 3 – 5 bedrooms and associated ancillary site works.
Location	Fort Marian, Mardyke Walk, Cork
Planning Authority	Cork City Council.
Planning Authority Reg. Ref.	17/37685.
Applicant(s)	Mideam Ltd.
Type of Application	Permission.
Planning Authority Decision	Refuse.
Type of Appeal	First Party
Appellant(s)	Mideam Ltd.
Observer(s)	None.
Date of Site Inspection	7 th Sept 2017
Inspector	Fiona Fair.

1.0 Site Location and Description

- 1.1. The application site (stated area of 0.06 ha) is located approx. 1.8 Km to the west of Cork City Centre, at the junction of Mardyke Walk and Noel Cantwell Walk – a pedestrian route linking the Mardyke with the Western Road.
- 1.2. The site is irregular in shape and currently occupied by a vacant two story residential property 'Fort Marian'. It is accessed via a pedestrian gateway through an arched pedestrian entrance on Mardyke Walk, only. 'Fort Marian' comprises a detached two storey structure built c. 1950s, it is not a protected structure and is not listed on the National Inventory of Architectural Heritage (NIAH). The building, which has been subdivided into two separate two-bedroom apartments one on the ground floor and one on the first floor, is currently vacant and in serious disrepair.
- 1.3. The northern boundary wall fronting on to Mardyke Walk presents a primarily rendered surface to the street with the entrance gateway comprising of a brick wall with wrought iron gates. The boundary walls to the west and south are constructed of rendered stone with some concrete block sections. The boundary wall to the walk way is of modern concrete block construction. A small concrete block built shed is located in the north-eastern corner of the site.
- 1.4. The surrounding streetscape is characterised by a number of building types which include 3 and 4 storey terraced dwellings that extend from Western Road through to Mardyke Walk. To the east of the site there is a pedestrian walkway that is a link between UCC Campus, the Mardyke Sports Arena and Fitzgerald's Park
- 1.5. The main entrance gates to Fitzgerald's Park lie immediately to the north of the site on the other side of Mardyke Walk.

2.0 Proposed Development

- 2.1.1. Permission for the demolition of existing dwelling, shed and boundary wall and the construction of 10 no. apartments with 41 bedspaces.

Apartments range in size between 3 – 5 bedrooms (over three to four floors) for student accommodation and associated ancillary development works incl.

- signage

- pedestrian access
- bicycle parking
- bin store
- landscaping and amenity areas.

2.1.2. No car parking spaces are proposed on site while a total of 12 no. bicycle parking spaces are proposed in a covered cycle rack provided at grade in the centre of the site.

2.1.3. The Planning and Design Statement states that the property will be made available over the summer months for self-catering guests.

2.1.4. The appeal site is located site within the Mardyke Architectural Conservation Area (ACA).

The application is accompanied with:

- An Historic Building Appraisal
- A Flood Risk Assessment
- A Student Accommodation Management Plan
- A Waste Management Plan
- A Drainage Report

3.0 Planning Authority Decision

3.1. Decision

Planning permission refused. The reasons for refusal are summarised as follows:

1. Having regard to;

- (a) The location of the site within the Mardyke Architectural Conservation Area
- (b) Paragraph 16.132 and objectives 9.29, 9.30 and 9.32 of Volume 1 of the Plan.
- (c) The historical plot size of the properties fronting Western Road
- (d) Excessive height, scale and massing

(e) The intended building lines and

(f) Likely traffic generation

It is considered that the proposed development would be visually overbearing and out of character with the pattern of development in the area of Mardyke. The proposed development would not enhance the special character of the ACA more than the retention of the original structure, would have a clear negative impact on that character and would give rise to increased traffic and noise generation. The proposed development would therefore seriously injure the character and amenities of the Mardyke ACA and materially contravene stated policies and objectives of the Plan.

2. Having regard to the proposed density of development on site, the nature and the intensity of the proposed use, the proposed development would result in the overdevelopment of this site. The proposed development would also seriously injure the residential amenities of property in the vicinity by reason of noise, traffic generation and general disturbance having regard to the proposed increase in density on site and associated servicing of same and use of balcony space. Proposal would set an undesirable precedent.

3.2. Planning Authority Reports

3.2.1. Planning Reports

- Planning Report: The proposed development is considered an inappropriate response in its context. The height, scale, massing and building line of the structure is inappropriate and out of character with the Mardyke ACA and the extent of site coverage and scale of development indicates over development of the site. The provision of balconies and the increase in traffic generation is likely to impact negatively on adjoining residential amenities and the established character of the ACA. The proposed development contravenes stated policies and objectives for the preservation and enhancement of this area contrary to the proper planning and sustainable development of the area.

3.2.2. Other Technical Reports

- Conservation Officer: Refusal of permission recommended.
- Parks: Refusal of permission recommended.
- Roads (Planning): No objection subject to condition
- Traffic: Refusal of permission recommended.
- Drainage Planning Report: No objection subject to Conditions
- Environment: Refusal of permission recommended
- Housing: No objection

3.3. Prescribed Bodies

- Irish Water (IW): Recommends that further information be sought in respect of watermain layout.
- The file was also referred, by both The Planning Authority and An Bord Pleanála, to The Heritage Council, Fáilte Ireland, An Taisce, the DoCHG and An Comhairle Ealaíon, however, no response was forthcoming.

3.4. Third Party Observations

A substantial number of third party objections and a signed petition from the Mardyke Walk Residents Association were submitted to the planning authority. A summary of the issues raised and considered is set out in the planners report on file. Issues raised include, not exclusively, those set out below;

- Proposal out of keeping with the character and architecture of the area.
- Proposal is contrary to the ACA designation of the area.
- Negative impact upon visual amenity of the area.
- Excessive scale, massing and height – over 4 floors with a plinth for flood protection
- Overbearing impact
- Inappropriate finish proposed
- Overconcentration of high-density student accommodation in the area

- Building would break historic building lines.
- Detrimental to the character and integrity of the streetscape.
- Inappropriate balconies
- Concern of noise and antisocial behaviour
- Loss of privacy from overlooking and devaluation of property
- Negative impact on local views of Protected Structures and Sundays Well Road;
- Lack of photomontages / views to show the scale / visual impact of development
- Concerns of traffic safety, traffic generation, road safety issues, lack of proper access for emergency vehicles
- Lack of adequate car parking incl. public car parking in the area.
- Risk of accidents from servicing of the development – yellow lines on roads surrounding the site
- Bicycle parking provision proposed inadequate.
- Concern with respect to construction traffic impacts – noise and obstruction from same.
- Construction management plan inadequate
- Lack of management company plans
- No E.I.S submitted
- Site located within Flood Risk Zone A; no flood emergency plan submitted
- Flood Risk Assessment submitted is flawed
- Undesirable precedent
- Lack of amenity space on site
- Lack of waste management details.

4.0 Planning History

4.1.1. None

5.0 Policy Context

5.1.1. Guidelines on Residential Development for 3rd Level Students

5.1.2. Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities, 2015

5.1.3. Design Manual for Urban Roads and Streets (DMURS), 2013

5.1.4. Architectural Heritage Protection Guidelines for Planning Authorities (2011)

5.2. Development Plan

The relevant statutory Plan governing the appeal site is the Cork City Development Plan 2015 – 2021.

The site is zoned 'ZO4', 'Residential, Local Services and institutional Uses' and is also located within the Mardyke Architectural Conservation Area (ref. Map 9, Volume 2 and Volume 3 of the Cork City Development Plan 2015 – 2021

Paragraph 15.10 states that, 'The provision and protection of residential uses and residential amenity is a central objective of this zoning, which covers much of the land in the suburban area.'

Fitzgerald Park and the sports grounds to its east and west are zoned as 'Public Open Space' and 'Sports Grounds', respectively, and these lands are also designated as an 'Area of High Landscape Value.'

Part of Mardyke Walk (east of Noel Cantwell Walk) is denoted as an 'Amenity Route' (Ref: Map 9 Volume 2 of the Plan).

The following section of the Plan are also of relevance to this appeal (relevant excerpts attached in Appendix to this report):

S4.2.2 Residential Density / Plot Ratio

S4.2.3 Residential Strategy: Student Accommodation

S4.2.4 Urban Design

S4.2.5 Building Height

S4.2.6 Architectural Heritage

Objective 9.29

Objective 9.30

Objective 9.32

Car/Bicycle Parking Requirements

6.0 The Appeal

6.1. Grounds of Appeal

- Strongly disagree that the proposed development would be visually overbearing and out of character with the pattern of development in the area.
- Disagree that the proposed development would materially contravene policies and objectives of the Cork City Development Plan 2015 – 2021.

Scale, Height and Massing of Development

- Disagree that the proposed development would seriously injure the character and amenities of the Mardyke ACA.
 - Fort Marian is not a protected structure nor is it listed on the NIAH
 - Fort Marian is located within the ACA
 - The quality of the streetscape of many of the properties has already been adversely diminished by the removal of the original residential boundary walls.
 - The proposal was redesigned from the initial proposal to reduce impact upon the built heritage by stepping back the building line, amended height, new low wall and railings, retention of the existing feature brick arch and pillar, clay / ceramic tiles for the façade, brick plinth / ground floor element and also to upper floors element.

- Building has been designed to frame its significant location, directly opposite the gates to Fitzgerald Park.

Optimising Student Accommodation on sites Close to UCC

- The proposal optimises student accommodation on a site close to UCC
- The site lies just 300m from UCC
- Key urban infill site in close proximity to UCC
- There is currently a housing shortage
- Demand for student accommodation in Cork City
- 25,000 students attending Cork Institute of Technology (CIT) and UCC
- Over 30,000 students attending third level institutions
- The Higher Education Authority's Report found that Cork has an extremely low provision of purpose built student accommodation
- In 2015, the total purpose built student apartments in the city was approx. 750 units, providing just 3,788 bed spaces.
- Estimated actual demand as being in the order of 12,000 beds per annum
- While there have been a number of recent student accommodation applications granted in the city and if constructed would increase the number of student bed spaces by approx. 2,247. However, there is still a need to reduce the gap between demand and supply.
- Sustainable use of existing urban land in line with policy

The scheme has been judiciously designed to a very high standard to ensure it will not affect the character of the ACA.

- Height and massing respects existing pattern of development
- A mix of building heights defines the character of the ACA
- The proposed development has a parapet height of 15.18m with a fourth floor set back of 17.85m
- The developments scale, massing and height is appropriate to its setting and the suggestion that it should be assessed comparative to the smaller scaled

residential properties is onerous and would lead to a complete under-utilisation of key urban infill sites.

- The p.a. does not cite any concerns in relation to loss of privacy, overlooking and loss of light
- The plot ratio of the proposed development is 1:9 which is above indicative levels.
- The proposed density on this 0.0624 ha site is 160 units which is justified in terms of location, presence of public transport (site is located c. 200m from a designated green route with a dedicated bus lane and frequent bus service), Vision for urban form, amenity considerations, parking, provision of ancillary services (easy walking of the city centre and services)
- Density calculations put forward by the area planner (224-337 units per ha) are subjective and a highly inappropriate way of calculating density and should not form part of an objective planning assessment.
- Submit that standard density calculations of units per ha is appropriate for student accommodation.
- While student accommodation may contain more bedrooms per unit versus a standard 2 – 3 bedroom apartment, these bedrooms will always be single occupancy, whereby a standard 2-3 bedroom apartment could potential accommodate a couple with 2 -3 children or two couples sharing.
- The apartments are located and orientated to overlook both Fitzgerald Park and the Noel Cantwell Walk, which will provide passive surveillance for the public streets.
- Disagree that the proposal would be visually jarring and intrusive.
- The proposed development complies with the 1999 Guidelines in terms of internal floor space / design
- The proposed scheme apartments vary between 3 and 5 bedroom with the 3 bed units measuring 72 sq. m and the 5 bedroom units measuring 125 sq. m
- The shared living communal space is in excess of the minimum requirement which is 4 sq. m per bed space in each unit

Impact Upon Residential Amenity

- A conservation led approach was taken to ensure the form, architecture and landscape are consistent and compatible with the surrounding built environment.
- The assertion that the proposal would injure the residential amenities by reason of noise, traffic generation and general disturbance demonstrates a negative bias against student accommodation.
- On-site management proposed with dedicated maintenance response team and 24 / 7 emergency cover in order to ensure management of the scheme to a very high standard in order to protect residential amenities of the area.
- The applicants Mideam Ltd. are specialist and highly experienced student accommodation providers.
- Any issues relating to noise and general disturbance can be addressed through the management arrangements set out in the student management plan.
- Private balconies are an important feature in inner-city apartment living, adding natural light and fresh air. to state that this amenity should not be provided to students due to perceived bias is inappropriate.

Traffic Generation / Car Parking

- The development by virtue of being student accommodation is advantageous in terms of minimisation of additional traffic generation and demand for on street car parking.
- Construction traffic can be dealt with by way of a construction traffic management plan.
- The site lies just 300m from UCC and 300m from a designated green route with a dedicated bus lane and frequent bus services
- Directly adjacent to a coca cola bike station
- 12 no dedicated bicycle parking spaces within a dedicated store
- Proposal encourages alternative sustainable modes of transport.

Appeal accompanied with:

- Photomontages of the proposed development within the existing streetscape.

6.2. Planning Authority Response

Response received it is summarised as follows:

- No further comment to make on the appeal other than to refute the allegations made in the appeal in relation to the manner in which the SEP Planner assessed the application.
- Allegations that the p.a. assessment was based upon negative assumptions and a clear negative bias towards student accommodation use is of particular concern.
- The area planner has recommended a grant of planning permission for several hundred student accommodation bed spaces in several developments across Cork City.
- In relation to T.P.16/37078 the Board concluded that the proposed increase in density was not appropriate due to the associated impacts of the intensification of development on residential amenities (both existing and proposed).
- The issues of increased density and impact upon residential amenities are clearly linked and refute the allegation that the development would have a negative impact on residential amenities of the area is based on ‘an antiquated bias against student accommodation.’
- Concern at the personalised tone of the appeal.

7.0 Assessment

- **Principle of the Proposed Development**
- **Design, Scale and Massing / Visual Impact**
- **Impact Upon Architectural Conservation Area**
- **Access, Parking, Traffic Issues**
- **Impact Upon Residential Amenity**
- **Material Contravention**
- **Environmental Impact Assessment (EIA)**
- **Appropriate Assessment (AA)**

7.1. Principle of the Proposed Development

- 7.1.1. The appeal site is zoned 'ZO4', 'Residential, Local Services and institutional Uses' and is also located within the Mardyke Architectural Conservation Area (ref. Map 9, Volume 2 and Volume 3 of the Cork City Development Plan 2015 – 2021. The objective of this land-use zoning is to protect and provide for residential uses, local services, institutional uses and civic uses. Paragraph 15.10 of the Plan states that 'the provision and protection of residential uses and residential amenity is a central objective of this zoning, which covers much of the land in the suburban area.'
- 7.1.2. I agree with the planning authority that the principle of residential development, which includes student accommodation, is acceptable in terms of land use subject to an assessment of its potential impact on existing residential amenities and other issues such as density and heritage.
- 7.1.3. The existing building on site is of modern construction and unoccupied. It is not a protected structure or listed for protection on the National Inventory of Architectural Heritage (NIAH). The conservation officer's report which recommends refusal of planning permission does not comment specifically on the acceptability of the demolition of the structure. I note Objective 9.30 of the Plan which states that 'Demolition of structures and parts of structures will in principle only be permitted in an Architectural Conservation Area where the structure, or parts of a structure, are

considered not to contribute to the special or distinctive character, or where the replacement structure would significantly enhance the special character more than the retention of the original structure'. The matter is discussed further, in detail, below.

7.2. Design, Scale and Massing / Visual Impact

- 7.2.1. The appeal site is situated on the Mardyke, an Inner Urban area, within, an area designated an Architectural Conservation Area in the Cork City Development Plan.
- 7.2.2. I highlight planning policy as outlined in paragraphs 16.25 – 16.38 of the Plan which deals with building height in the city. Paragraph 16.33 states that 'the Inner Urban Areas i.e. those parts of the 1920 city outside the commercial core of the city typically have a general building height of 1.5 – 3 storeys. New development should respect this scale of development due to the important character of these areas and their high visibility from the City Centre and historic approach roads'.
- 7.2.3. The existing building on site is stated on the survey drawing to have an eaves height of 8.75m and a ridge height of 11.45m. The proposed building is to have a roof parapet height of 17.87m O.D. at its topmost level with the three storey element having a parapet height of 15.40m O.D. as the ground floor level is proposed at 4.70m. The footpath fronting the Mardyke is shown to have a level varying between 3.61 and 3.95m O.D. it is noted that the eave and ridge heights of the dwellings to the east of the site are stated as being between 7.27m and 9.82m (Marian Ville) and 10.58m and 13.74m (Nos, 1 and 2 Maryville).
- 7.2.4. The prevailing height of buildings which directly front Mardyke Walk is one and half – two and a half storeys and I agree with the opinion of the planning authority very much domestic in scale. The dwelling to the east (Marian Ville) is even lower in height being a dormer property. Higher properties front the Western Road and the rear of those properties back onto Mardyke Walk. Where new structures have been built in the rear gardens of plots fronting Western Road and fronting Mardyke Walk they have all been one and a half to two storeys in height. While there is no defined building line, new development to the west has been set back from the front boundary line. The proposed advanced building line and height of four storeys is

considered inappropriate and would contribute to an overbearing visual impact from the surrounding streetscape.

7.2.5. It is the opinion of the planning authority that the 'appropriate context for the determination of the acceptability of the height of new development along Mardyke Walk to be domestic scaled development which characterises this area. The proposed development does not respect the existing scale of development on Mardyke Walk and height and massing of the proposed development would be completely out of character and scale with the prevailing character of the area. The jump in scale from the fine grain of the rear garden plots and individual house plots to the monolithic three-four storey development is too great and too severe to be supported in terms of its visual impact on the amenities and character of the area'.

7.2.6. I agree with the planning authority that the size and scale of the proposed development on a restricted site, in a very prominent location opposite the gates to Fitzgerald Park is inappropriate and visually jarring. The advanced building line along the Mardyke, its height, level of site coverage / density and the bulk of the development is in complete contrast to all other residential properties along the Mardyke and would, if permitted, be an unsightly intrusion to this tranquil landscape environment, and not in keeping with the zoning objectives.

7.3. Impact Upon the Architectural Conservation Area (ACA)

7.3.1. The site is situated on the Mardyke, an area designated an Architectural Conservation area (ACA) in the City Development Plan 2015 – 2021 and immediately opposite an area (Fitzgerald's Park) designated an Area of High Landscape Value. Both designations recognize the unique characteristics of this historic part of the City (dating from the early 1700s) which accommodates residential and recreation use in a sympathetic manner. I agree with the planning authority that new development or alterations to existing properties in the area, have taken account of the sensitivities of the Mardyke to ensure the visual appeal and attractiveness is not damaged or compromised.

7.3.2. Part 1 Architectural Conservation Areas, of Volume 3, of the City Development Plan sets out a description of the area as follows:

'The Mardyke Architectural Conservation Area (ACA) is defined by a linear pattern of development, centred along the main thoroughfare running from The Maltings

complex in the east to the grounds of the Sacred Heart Catholic Church on Western Road. It is bound to the north by the River Lee while the rear gardens of predominantly terraced housing shape the southern boundary of the ACA’.

7.3.3. The statement of character for the Mardyke Walk ACA notes the following: ‘The linear street pattern of Mardyke Walk and Dyke Parade, running west-to-east, provides a strong framework which contains varied styles of architecture constructed from the 18th century to the present. It retains the character of a tree-lined avenue with historic elm trees along its length while the Constable’s Lodge hints at its past as a gated promenade. While the area is primarily residential in character with recreational and educational uses incorporated along its northern boundary on the floodplain of the River Lee, it is split into two distinctive sections by the junction of Mardyke Walk and Slí Chumann na mBan...To the west of Slí Chumann na mBan, the area centred on Mardyke Walk is markedly different in character with a mix of recreational and residential uses. It is much smaller in scale and far less urban in character, contributed to by a more uniform cover of shrubbery and trees along the northern boundary of a more modestly sized roadway. The varying treatment of the boundary between private residences and the public domain is an important feature that affects the character of this area, whether that be the tall gates and garages of the rear gardens of large 3 and 4-storey buildings facing onto Western Road, the low rendered walls with wrought-iron railings of the front gardens of smaller Victorian 2-storey terraced dwellings facing onto Mardyke Walk or the higher pebble-dashed walls of mid-20th century semi-detached dwellings’.

7.3.4. The issues facing the Mardyke Walk ACA are listed as follows:

‘In general, the area has retained much of its historic character and detailing. However, some changes to fenestration and the roofscape have altered the appearance of some historic buildings, especially those that are part of a terrace. Also, several modern residential developments along Mardyke Walk are out of character for the streetscape. If this trend is allowed to continue, it could prove to be detrimental to the character and integrity of the streetscape. Increasing traffic pressure, especially along Mardyke Walk just east of Slí na Chumann mBan, has also meant that some original residential boundary walls and railings have been removed to create off-street parking. This practice must be discouraged in order to emphasise the continuity of the character along this historic route’.

7.3.5. The Specific Built Heritage Objectives section, of Vol 3, goes on to states: ‘The Mardyke Walk is widely used by pedestrians and cyclists and could benefit from and an improved pedestrian and cycling environment and a reduction in vehicular traffic. Footpath repairs are needed due to damage from tree roots. The vacant site on the western boundary at the junction of Mardyke Walk and Western Road, significantly reduces the visual amenity of the area. The appropriate redevelopment of this site could reinforce the strong existing character of the area’.

7.3.6. The planning authority assessment sets out that the overall guiding principle of development in such areas is ‘positive enhancement of the unique qualities that make a place special because of its particular character’ (Paragraph 16.132 of the Plan). The stated aim of the policies and objectives outlined in the Plan in relation to ACA’s is ‘to protect their special characteristics and distinctive features from inappropriate actions’ (Paragraph 9.46) and their preservation and enhancement (Objective 9.29). Demolition of structures in the ACA is only permitted in principle ‘where the structure does not contribute to the special or distinctive character or where the replacement structure would significantly enhance the special character more than the retention of the original structure’ (Objective 9.30). Objective 9.32 states that development in ACAs should take account of the following:

- ‘Works that impact negatively upon features within the public realm such as paving, railings, street furniture, kerbing etc. shall not be generally permitted’;
- ‘Acceptable design, scale, materials and finishes for new developments’;
- ‘Original materials and methods of construction should be retained. For example, timber barge boards, windows and doors should not be replaced with PVC, original roofing material types should be retained along with original forms and locations of openings etc.’;
- ‘Features of historic or architectural value should not be removed’.

7.3.7. I highlight that the Historic Building Appraisal submitted in support of the application sets out that ‘views and prospects from Fitzgeralds Park should inform the proposed scale and design of any proposed development at this location as the main entrance to the Park is directly opposite the subject site and both the gateway and museum are Protected Structures’ and that ‘There is capacity for a building of scale by virtue

of the height of buildings adjoining the subject site.’ It also states that surviving nineteenth-century boundary elements such as the walling and gates to the roadside should be retained to help integrate any new development into its setting.’

- 7.3.8. The site is highly visible and prominent from the important public amenity of Fitzgerald’s Park and Mardyke Walk. The planning authority assessment notes that no visual assessment of the development was been carried out from within Fitzgerald’s Park. A set of 5 visual perspectives have been submitted with the first party appeal. Drawing no. 15163-P-204 illustrates the proposed development from within Fitzgerald’s Park. Having considered the perspectives submitted in association with the plans and drawings on file and having carried out a site visit I concur with the assessment by the planning authority that the proposed height reference of the Western Road structures if replicated on this site would be visually jarring and intrusive and have a negative impact on the setting of the Park and the Protected Structures located within same which are of social and heritage value and contribute to the varied historic character of the area.
- 7.3.9. I am of the opinion that the planning authority have taken a reasonable approach to redevelopment of the site, I agree that the replacement structure would not significantly enhance the special character of the area more than the retention of the original structure and therefore the development contravenes Objective 9.30 of the Plan in this regard.
- 7.3.10. The planning officer the conservation officer and the chief parks superintendent recommend that permission be refused on the basis that the development would have a negative impact upon the character of the ACA and the tranquil landscape environment.
- 7.3.11. I agree that the size and scale of the proposed development on a restricted site is not in keeping with the zoning objectives, the bulk of the development is in complete contrast to all other residential properties along the Mardyke and would be an unsightly intrusion to this tranquil landscape setting.

7.4. Access, Parking, Traffic Issues

- 7.4.1. In accordance with the City Development Plan 4 number car spaces and 21 number cycle parking spaces are required to serve the proposed development. Zero car parking spaces are proposed and only 12 cycle parking spaces are proposed to serve the development.
- 7.4.2. The Transportation and Mobility report sets out that Mardyke Walk is a cul de sac road that is a key amenity trip attractor for the whole of Cork City. As well as a residential area it also serves the Mardyke Arena, Fitzgerald Park and specifically the play park (which is one of the biggest play parks in the city), Sundays Well Boating and Tennis Club as well as the Cork County Cricket Club. There are significant pedestrian and cyclist numbers of persons of all ages and ability along Mardyke Walk right throughout the day. Numerous events such as sporting matches, family events in the Park, the Darkness into Light, Picnic in the Park, World Street Performers Championship events, use Mardyke Walk as a key route to their event / club.
- 7.4.3. Noel Cantwell walk is also a key pedestrian link between UCC, western Road and Mardyke Walk. The well-used NTA Coke Zero bike station which is located adjacent to the northern end of Noel Cantwell Walk would have to be closed / removed for the duration of the works which would discommode many persons who use the walkway and the bike scheme as part of their daily commute.
- 7.4.4. It is the opinion of the Transportation and Mobility Roads and Transportation Directorate of the planning authority that the proposed demolition of the existing structure and wall and the construction of a development of such scale, at this location where there are significant volumes of vulnerable road users, would be problematic and is of serious concern.
- 7.4.5. In addition to the concerns raised with respect to serious traffic hazard for pedestrian / cyclists, concern is also raised with respect to construction traffic conflict on Mardyke Walk.
- 7.4.6. The Roads Design (Planning) Report on the other hand has no objection to the proposed development subject to conditions in respect of upgrading / resurfacing of Noel Cantwell Walkway and upgrading to its public lighting, thereby improving the public realm and pedestrian safety for future residents.

7.4.7. The Mardyke Walk benefits from its close proximity to local amenities, UCC and the city centre which means that many trips can be undertaken by foot, bicycle or public transport. Therefore, I agree that a car may not be needed or desired. Overall, while I have concern with respect to exacerbated traffic generation in the area, I am of the opinion that issues in respect of construction traffic and upgrading of Noel Cantwell Walkway could be resolved by way of condition should the board be mindful to grant planning permission for the proposed development.

7.5. Impact Upon Residential Amenity

- 7.5.1. In respect of the wider concerns as regards the potential for the proposed development to detract from the residential amenity of neighbouring dwelling houses by reason of the noise, nuisance and general disturbance likely to be associated with the usage of same as student accommodation, it is noted that this matter was previously considered in the Board's determination of PA Ref. No. 15/36530 / ABP Ref. No. PL28. 245912 and wherein it was held that a proposal to develop 8 No. student accommodation apartments at Brookfield Village, Cork would negatively impact on the residents of the wider area by reason of the proximity to private homes, noise and impacts on the general amenities of the area. Also in the case of PA Ref. 15/36267 / PL28. 245315 (also Brookfield Village) the Board concluded that the increase in density was not appropriate due to the associated impacts of the intensification of development on residential amenities by reason of proximity to private homes, noise and impacts on the general amenities of the area.
- 7.5.2. Regard is had to the submissions by the applicant that issues relating to noise and general disturbance associated with student accommodation can be addressed through the management arrangements which are set out in the student management plan.
- 7.5.3. The Mardyke Walk area surrounding the subject appeal site is a low density residential area, given the nature of the accommodation proposed incorporating balconies at first, second and third floors, the scale, density and level of site coverage I would have some concern that the subject proposal as a whole (which provides for a total of 10 No. apartments encompassing 41 No. bed spaces / bedrooms) has the potential to give rise to significant noise, nuisance and general disturbance which would have a corresponding detrimental impact on the existing

residential amenities of the occupants of those dwelling houses on Mardyke Walk and other private residences adjacent to the subject site.

7.6. **Material Contravention**

- 7.6.1. As stated above, in section 3.1 of this report, the draft reason for refusal by the planning authority considers that the development 'would seriously injure the character and amenities of the Mardyke Architectural Conservation Area and materially contravene stated policies and objectives of the Plan...'. Specifically, the location of the site within the Mardyke Architectural Conservation Area is referred to and paragraph 16.132 and objectives 9.29, 9.30 and 9.32 of Volume 1 of the Plan.
- 7.6.2. Paragraph 16.132 of the Plan states: 'The requirements for planning application documentation for development within Architectural Conservation Areas and for their subsequent assessment are set out in the Architectural Heritage Protection Guidelines (DOEHLG, 2004). Further refinement in respect of development management policies will be provided through subsequent special planning control schemes detailing relevant development requirements for each selected area. The overall guiding principle is positive enhancement of the unique qualities that make a place special because of its particular character. Detailed policies are set out in Chapter 9: Built Heritage and Archaeology (paragraph 9.14-9.29)'.
- 7.6.3. Objective 9.29 of the Plan, in relation to 'Architectural Conservation Areas' states: 'To seek to preserve and enhance the designated Architectural Conservation Areas in the City'.
- 7.6.4. Objective 9.30 'Demolition in Architectural Conservation Areas' states: 'Demolition of structures and parts of structures will in principle only be permitted in an Architectural Conservation Area where the structure, or parts of a structure, are considered not to contribute to the special or distinctive character, or where the replacement structure would significantly enhance the special character more than the retention of the original structure'.
- 7.6.5. And Objective 9.32 'Development in Architectural Conservation Areas' states: 'Development in ACAs should take account of the following:

- Works that impact negatively upon features within the public realm such as paving, railings, street furniture, kerbing etc. shall not be generally permitted;
- Acceptable design, scale, materials and finishes for new developments;
- Original materials and methods of construction should be retained. For example, timber barge boards, windows and doors should not be replaced with PVC, original roofing material types should be retained along with original forms and locations of openings etc.;
- Features of historic or architectural value should not be removed'.

7.6.6. In such circumstances, section 37 (2)(b) of the 2000 Act states that the Board may only grant permission where it is considered that:

- The proposed development is of strategic or national importance,
- There are conflicting objectives in the development plan or the objectives are not clearly stated, insofar as the proposed development is concerned, or
- Permission for the proposed development should be granted having regard to regional planning guidelines for the area, guidelines under section 28, policy directives under section 29, the statutory obligations of any local authority in the area, and any relevant policy of the Government, the Minister or any Minister of the Government, or
- Permission for the proposed development should be granted having regard to the pattern of development, and permissions granted, in the area since the making of the development plan.

7.6.7. The Mardyke area, within which the appeal site is located, is designated as an ACA. The first party argues that the proposed development represents an opportunity to create a pragmatic approach to the reinvention of Mardyke Walk and would significantly enhance the special character of the area more than the retention of the original structure and that therefore it does not conflict with policies and objectives of the City Development Plan and the Governments recent housing initiative the 'Action Plan for Housing and Homelessness – Rebuilding Ireland', where the importance of providing well designed student accommodation in Key urban locations was identified. It is contended that a grant of permission would facilitate the development of an underutilised infill site and counter the chronic shortage of purpose built student accommodation in Cork City.

7.6.8. Regard being had to the preceding section of this report 'Impact Upon ACA' and to the guiding principles and policies set out in the Cork City Development Plan 2015 – 2021 for development in such areas I consider that a grant of planning permission would have a negative impact on the character of the ACA and the tranquil landscape environment and would therefore materially contravene the Plan. I am therefore of the opinion that the exemptions set out in Section 37 (2)(b) cannot be applied in this instance and permission should be refused.

7.7. Environmental Impact Assessment (EIA)

7.7.1. Having regard to the nature and scale of the proposed development, the nature of the receiving environment and proximity to the nearest sensitive location, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

7.8. Appropriate Assessment (AA)

7.8.1. The closest European Sites are the Cork Harbour SPA (site code 004030) and the Great Island Chanel cSAC (site code 001058).

7.8.2. Having regard to the nature and scale of the proposed development, the nature of the receiving environment and proximity to the nearest Natura 2000 sites. 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 Refused for the proposed development.

9.0 Reasons and Considerations

1. The proposed development, by reason of its excessive height relative to surrounding buildings, its bulk and massing, its building line and its design, would be out of character with the pattern of development in the vicinity and would constitute a visually discordant feature that would materially affect the character of the Mardyke Architectural Conservation Area and historic character of this area, which it is appropriate to preserve. The proposed development would not enhance the special character of the ACA more than the retention of the original structure, would have a clear negative impact on that character and would give rise to increased traffic and noise generation. The proposed development would therefore seriously injure the character and amenities of the Mardyke ACA and materially contravene stated policies and objectives of the Cork City Development Plan, specifically paragraph 16.132 and objectives 9.29, 9.30 and 9.32. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

2. Having regard to the proposed density of development on site, the nature and the intensity of the proposed use, the proposed development would result in the overdevelopment of this site. The proposed development would also seriously injure the residential amenities of property in the vicinity by reason of noise, traffic generation and general disturbance having regard to the proposed increase in density on site and associated servicing of same and use of balcony space. The proposed development would set an undesirable precedent.

Fiona Fair

Planning Inspector

05.11.2018