



An  
Bord  
Pleanála

## Inspector's Report 307995-20

### Development

Demolish Kino Cinema and construct new building with art house and performing arts space with café/bar at ground floor and basement level and student accommodation on upper floors consisting of 17 bedspaces with roof garden to be used as tourist accommodation outside of term time and all ancillary site development works

### Location

21 Washington Street, including laneway west of No. 23 Washington Street and to the side of Little Hanover St and Gravel Lane, Cork City

### Planning Authority

Cork City Council

### Planning Authority Reg. Ref.

1938828

### Applicant(s)

Philip O'Connor

### Type of Application

Planning permission

### Planning Authority Decision

Grant permission s.t. conditions

**Type of Appeal**

Third Party

**Appellant(s)**

Tim McCarthy

**Observer(s)**

None

**Date of Site Inspection**

9<sup>th</sup> December 2020

**Inspector**

Mary Kennelly

## **1.0 Site Location and Description**

- 1.1.** The site is located on Washington Street in Cork City Centre, approx. 300m to the west of Grand Parade. It comprises the former Kino Cinema site which has been in use as an independent cinema, the Art House Cinema with café, during the late 1990s and the 2000s, and in more recent times as a cultural centre. It is currently vacant and is a corner site. It is bounded by Little Hanover Street to the west and by Gravel Lane to the east and north. The lands to the north along Gravel Lane and the eastern side of Little Hanover Street comprise 2-storey terraced housing which front directly onto the lane. Lancaster Hall is located on the western side of Little Hanover Street, which is a student apartment block. The lands to the east of the appeal site comprise a traditional streetscape of terraced 3-4 storey buildings with shops at ground floor level and apartments/residential overhead. The third-party appellant owns the property immediately to the east (No. 23 Washington Street).
- 1.2.** The block to the west comprises a large vacant furniture store (formerly known as Square Deal) which occupies most of the street block, with a number of small units along the Little Hanover Street frontage including a wine shop and Cork Penny Dinners. The former furniture store has recently benefited from a grant of planning permission by the Board for a mixed-use development comprising a ground floor café and co-working space and a student accommodation complex with 280 bedspaces.
- 1.3.** The appeal site (red line boundary) comprises a stone building which has been extended and altered over the years, and has an iconic façade including the entrance and signage with a large mural painted on the front elevation. The site area is given as 0.029ha.

## **2.0 Proposed Development**

- 2.1.** It is proposed to demolish the existing building (floor area of 277m<sup>2</sup>) and to erect a four-storey building with a small fifth floor element including a basement level (888m<sup>2</sup>) and a roof terrace. The floor area including the roof garden (1,005m<sup>2</sup>). The proposed use of the building is as an 'Art House' with a café at ground and basement levels and 17 student bedspaces with associated ancillary

accommodation at first, second and third floors. The fifth floor would comprise plant/lift lobby and the roof terrace (117m<sup>2</sup>).

- 2.2. The proposed ground floor will include a café/bar area with a performance stage with associated kitchen, dressing rooms and storage areas in the basement. The entrance to the art house café will be from Washington Street with a large, glazed shopfront, and the entrance to the student accommodation will be at the corner with Little Hanover Street, with a further large window. The ground floor area will also include separate bin stores for both the café and the student accommodation uses. A communal bicycle store for 12 bikes will be provided adjacent to the entrance to the student apartments.
- 2.3. It is proposed to provide five student units on each of the three upper floors, two of which will be double rooms. Each of the floors will have a shared living space with a kitchen, which will occupy the south-western corner of the building. The north-western corner will be occupied by the stair core and lift lobby, with the student bedrooms at the eastern end of the building. The roof terrace will be landscaped and screened by means of toughened glass screens, with a landscape border.
- 2.4. The building will be c.13.26 metres tall with an additional 2.7m at the north-western corner to accommodate the lift shaft and stair core. It will be clad with red brick apart from the ground floor area around the entrances, which will have grey brick and will include signage for the Kino Art House and the apartments.

## 3.0 Planning Authority Decision

### 3.1. Decision

The planning authority decided to grant permission subject to 26 conditions which were generally of a standard nature. The following conditions are of note –

**Condition 2** required full details of hours of operation of cinema/performing arts space and café/bar and prohibited use of café/bar as hot fast-food take-away.

**Condition 3** required the submission and agreement of a Student Accommodation Management Plan including details of supervision measures and control over usage of the outdoor amenity area, prior to commencement of development.

**Condition 4** required full details of signage.

**Conditions 5, 6 and 7** related to control of noise and environmental impacts during construction.

**Condition 8** placed restrictions on operational noise.

**Condition 9** required approval of waste management matters.

**Condition 10** required the provision of 18 bicycle spaces.

**Condition 17** required the provision and the replacement of pedestrian crossing facilities.

**Condition 25** required flood mitigation measures to be put in place.

**Condition 26** required the payment of a development contribution in accordance with the GDCS.

## **3.2. Planning Authority Reports**

### **3.2.1. Planning Reports**

3.2.1.1 The initial planning report (17/12/19) considered that the proposed development was acceptable in principle. The ground floor elevational treatment on Washington Street and Little Hanover Street were welcomed and the lack of surveillance on Gravel Lane was considered acceptable given the constraints of the site and nature of the use. The concerns of the third-party objector were noted. It was considered that the proposed development would not result in any significant loss of light to the property to the east and that the use of the roof terrace could be controlled by means of a management agreement.

3.2.1.2 It was noted that the student apartments meet the minimum design standards. It was considered that the proposal exceeds the Development Plan indicative standards in terms of density and plot ratio, but this was considered to be acceptable at this location. The height of the building and its design and external finishes were considered to be in keeping with the existing pattern of development on the street. It was considered that the building would successfully integrate into the North Mall and the Marsh Architectural Conservation Area. Furthermore, it would not interfere with Protected View LT29 or give rise to any adverse visual impacts.

3.2.1.3 Further information was required in respect of flood defence measures given that the site is located within Flood Zone A and on the basis of the Draft Lee CFRAMS Report. It was requested that a site-specific Flood Risk Assessment Report be submitted, together with measures to address risk of flooding within the property, measures to manage and mitigate flood risk to occupants and users and means of egress from the building in the event of a flood. Further information was also required in respect of the 600mm storm water drain that runs through the property, regarding which it was requested that the applicant liaise with the Drainage Section and that measures for diversion of same be proposed if required.

### **3.2.2. Other Technical Reports**

Roads Design - Planning - No objection subject to conditions.

Drainage/Water Services – FI requested re stormwater drain.

Environment – No objection subject to conditions.

City Architect – No objection, supports design of proposal.

Conservation Officer – No objection subject to conditions.

Housing – No objection.

Traffic – No objection subject to conditions.

### **3.3. Prescribed Bodies**

3.3.1 Irish Water (14/12/19) – no objection subject to recommended conditions.

### **3.4. Third Party Observations**

3.4.1 The third-party submission was from the third-party appellant. The main concerns may be summarised as follows: -

- Height of proposed building will overshadow and create loss of light for the adjoining property to the east.
- Use of the roof top garden for amenity space could give rise to anti-social behaviour and would be detrimental to local residential amenity.

### **3.5. Response to Further Information Request (03/07/20)**

**3.5.1.** FI was requested on 18/12/19 and a response was submitted on 3<sup>rd</sup> July 2020. The response was considered to be generally acceptable, and may be summarised as follows:

- 1. Existing 600mm diameter sewer** – A CCTV survey was carried out in the presence of the P.A. Area Engineer on 02/07/20. It was confirmed that the 600mm sewer running through the footprint of the site is redundant and a copy of the survey has been provided.
- 2. Flood Risk Assessment** – A FRA was carried out by Irish Hydrodata Ltd. and a report dated 20<sup>th</sup> April 2020 was submitted. It was concluded that the building can be protected using flood resistant construction methods and to mitigate against current risk and reduce the future risk. No significant changes to the building footprint or layout are required. The proposal is considered to be justifiable in terms of the FRA Guidelines Justification Test.

**3.5.2.** The Area Planner considered that the flood risk and drainage issues had been satisfactorily addressed. Permission was, therefore, recommended, subject to conditions.

## **4.0 Planning History**

### **On subject site**

**TP 04/28724** – Planning permission granted for demolition of existing cinema and construction of 3 no. cinemas, on separate upper storeys with ground floor restaurant. This related to the construction of a 4-storey building (16.2m in height). Permission was not implemented and expired on 10/04/10.

### **On adjoining sites**

**TP18/37406** – Permission granted for redevelopment of former Square Deal premises to the west for a mixed-use development including co-working space, café/bar and student accommodation (242 bedspaces). An appeal against the decision was withdrawn.

**ABP.307364-20** – permission granted on 29/09/20 by Board (under SHD) for modification of student accommodation development permitted under TP 17/37406 to provide an increase to 280 bedspaces. This permission included ancillary student support facilities including a laundry, gym, amenity lounge, a library, dining room etc. as well as landscaped internal courtyards and a roof terrace at fourth and fifth floors. It also included a publicly accessible café at ground floor. The student accommodation is to be managed by a specialist student accommodation operator and a condition was attached to the permission restricting the use of the roof terraces to the hours of 0800 to 2200 daily.

**TP 186/38029** – permission granted for a change of use of the ground floor of 23A Washington Street from shop to restaurant at Ground floor.

## **5.0 Policy Context**

### **5.1. National Planning Framework 2018-2040**

**National Strategic Outcome 1 - Compact Growth** - recognises the need to deliver a greater proportion of residential development within existing built-up areas.

Activating these strategic areas and achieving effective density and consolidation, rather than sprawl of urban development, is a top priority.

**Objectives 3A and 3B** direct new housing development to existing built up areas.

**Chapter 6** notes that student accommodation pressures are anticipated to increase in the years ahead. The location of purpose-built student accommodation needs to be as proximate as possible to the centre of education, as well as being connected to accessible infrastructure such as walking, cycling and public transport. The National Student Accommodation Strategy supports these objectives.

### **5.2. Rebuilding Ireland – Action Plan for Housing and Homelessness 2016**

**Pillar 4: Improve the Rental Sector** Key objective:

**Key objective:** Addressing the obstacles to greater private rented sector delivery, to improve the supply of units at affordable rents.

**Key actions** include supporting greater provision of student accommodation.



### **5.3. Southern Region – Regional Spatial and Economic Strategy 2020**

#### **RPO 10: Compact Growth in Metropolitan Areas**

To achieve compact growth, the RSES seeks to:

- (a) Prioritise housing and employment development in locations within and contiguous to existing city footprints where it can be served by public transport, walking and cycling.
- (b) Identify strategic initiatives in Local Authority Core Strategies for the MASP areas, which will achieve the compact growth targets on brownfield and infill sites at a minimum and achieve the growth targets identified in each MASP.

#### **Cork MASP**

Policy Objective 8 - Key Transport Objectives (subject to the recommendations of Cork Metropolitan Area Transport Strategy)

East-West Light Rail Public Transport Corridor: A strategic public transport corridor from Mahon to Ballincollig via the City Centre, serving CIT, CUH, UCC, Kent Station, Docklands, Mahon Point. The corridor requires development consolidation along it at appropriate nodal points for a high-capacity service.

### **5.4. Cork Metropolitan Area Transport Strategy**

CMATS seeks to provide for the integration of new development at appropriate densities with high-capacity public transport infrastructure, in conjunction with more attractive walking and cycling networks and associated public realm improvements. It also includes the provision of a Light Rail Tram system for the corridor between Ballincollig and Mahon, serving CIT, CUH, UCC, Kent Station, Docklands and Mahon Point. This meets the long-term objective for the CMA for the development of an east-west mass transit, rapid transport corridor.

**5.5. Sustainable Residential Developments in Urban Areas 2009 and Best Practice Urban Design Manual, Parts 1 & 2 (2009)**

These guidelines provide advice on matters such as density, layout and site-specific standards for the protection of amenity and the promotion of good quality spaces in accordance with best practice in urban design.

**5.6. Design Manual for Urban Roads and Streets (2013)**

These statutory guidelines focus on the role and function of streets within urban areas where vehicular traffic interacts with pedestrians and cyclists. The manual generally seeks to achieve better street design in order to encourage more people to choose to walk, cycle and use public transport by making the experience more pleasant and safer, and thereby promoting more healthy lifestyles. It outlines practical design measures to support and encourage more sustainable travel patterns in urban areas. These include guidance on materials and finishes, street planting, design and minimum width of footways (including minimum widths, verges and strips), design and location of pedestrian crossings, kerbs and corner radii and shared surfaces.

**5.7. Architectural Heritage Protection Guidelines for P.A.s (2011)**

These guidelines include advice on appropriate development within Architectural Conservation Areas.

**5.8. Urban Development and Building Heights, Guidelines for Planning Authorities (2018)**

These guidelines reflect the National Planning Framework Strategic Outcomes in relation to compact growth and consider there is significant scope to accommodate anticipated population growth by building up and consolidating development of our urban areas.

## 5.9. The Planning System and Flood Risk Management

These guidelines set out good practice in the consideration of flood risk in planning and development management. The key principles include the following:

- a) Avoid development in areas at risk of flooding (sequential approach)
- b) If this is not possible, consider substituting a land use that is less vulnerable to flooding.
- c) Only when both avoidance and substitution cannot take place should consideration be given to mitigation and management of risks.

Exceptions to the restriction of development due to potential flood risks are provided for through the use of the Justification Test, where planning need and the sustainable management of flood risk to an acceptable level can be demonstrated.

## 5.10. Cork City Development Plan 2015-2021

The **Core Strategy** includes Goal 1 which seeks to increase the population and households that create a compact sustainable city and Goal 2 which seeks to achieve a higher quality of life, promote social inclusion and make the city an attractive and healthy place in which to live, work, visit and invest in.

The site is **zoned ZO2 City Centre Commercial Core Area,**” the objective for which is

“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).”

Paragraph 15.8 states that all uses are permitted in the CCRA except comparison retail uses, which are restricted to the City Centre Retail Area.

**Student Accommodation** is addressed in Variation 5 of the Development Plan, which was adopted in July 2018. Its purpose was to update Purpose-built Student Accommodation in line with a National Student Accommodation Strategy, 2017 and Rebuilding Ireland Action Plan for Housing and Homelessness, 2016. Chapter 6 was updated to reflect national policy, where 6.15a encourages purpose-built student

accommodation in lieu of provision via the private rental sector. **Objective 6.5 Student Accommodation** seeks the provision of high quality and managed, purpose-built student accommodation either on campus or in areas close to the Third Level Institutes and within easy access of public transport corridors and cycle routes serving these institutions. **Objective 8.9** seeks to develop additional spaces/buildings for arts and cultural uses including the use of vacant buildings for such uses.

**ACA** - The site is located within the North Mall and The Marsh Architectural Conservation Area, which is described as an area of architectural, historical and industrial archaeological significance. Issues for the ACA include commercial viability, vacancy, dereliction, flooding and traffic associated with the hospital. Key objectives include Objective 9.29 which seeks to preserve and enhance the designated ACAs in the city and Objective 9.32 which sets out the Conservation Principles for development in ACAs.

**Objective 10.6 – Views and Prospects** seeks to protect and enhance views and prospects of special amenity value or special interest that contribute to the character of the City’s landscape from inappropriate development. There will be a presumption against development that would harm, obstruct or compromise the quality or setting of linear views of landmark buildings, panoramic views, rivers prospects, townscape and landscape views and approach road views. Views and prospects identified for protection include:

- SFC4 ‘View of St. Finbarr’s Cathedral from Grenville Place (near Mercy Hospital).
- PAN1, View of St. Finbarr’s Cathedral from St. Anne’s Church.
- SW1, View of St. Finbarr’s Cathedral from Sunday’s Well Road.
- LT29 – View of Bishops Palace and grounds for / from Shandon

**Flood risk** – objective 12.15 seeks to restrict development in identified flood risk area, in particular in floodplains, except where the applicant can satisfy the Justification Test.

**Objective 5.1 Strategic Transport** – provides for greater consolidation of development within the City Centre through the integration of land use and transport planning, investment and service provision. It is also an objective to develop a Bus

Rapid Transit system from Ballincollig to Mahon via the City Centre and Docklands and to encourage innovative measures to reduce the requirement for parking.

**Chapter 16 Development Management** - contains a suite of minimum standards for student accommodation (Table 16.5a). Matters to be considered in new residential developments are outlined in 16.49. Residential density and plot ratio are also addressed in Chapter 16, paragraph 16.42 where it is stated that densities of 75 dwellings per hectare would be the minimum in the city centre, but should respond to their individual contexts, including plot ratio and other design considerations. Plot ratio indicative standards are contained in Table 16.1. Building Height is addressed at 16.25, 16.29, 16.30 and 16.31. Development affected by Protected Views is outlined in Paragraphs 10.22-10.31.

### 5.11. Natural Heritage Designations

Cork Harbour SPA – lies approx. 7km to the east. Great Island Channel SAC lies approx. 10km to the east.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

The third-party appeal was submitted by Tim McCarthy of No. 23 Washington Street, which lies immediately to the east of the appeal site. The main points raised may be summarised as follows:

- **Loss of Privacy and Overlooking** - The height, depth and location of the proposed development would be intrusive and would result in overlooking and loss of amenity to the appellant's windows on the western side elevation. The separation distance is 8 metres on average and the bedroom windows of the student accommodation will directly overlook the existing bedroom windows of his property. This will result in a gross infringement of his rights to privacy.
- **Overshadowing** – the proposal for a 4-storey over ground development plus roof garden located to the west of his property would lead to a diminution of natural light.

- **Impact of roof garden on residential amenity** – notwithstanding condition 3 of the P.A. decision and based on historical issues relating to student anti-social activities, the concept of a roof garden will inevitably lead to an abuse of such a facility creating noise and disturbance to adjoining residents irrespective of any conditions requiring “management”. As a result, it is likely to be locked up. The provision of such a facility is considered to be highly irresponsible and should be removed entirely from the development.
- **Principle of development** – there is no objection to the principle of the development providing that the matters raised above are adequately addressed.

## **6.2. Planning Authority Response**

6.2.1 The P.A. responded to the grounds of appeal on the 9<sup>th</sup> September 2020 by stating that it has no further comments to make.

## **6.3. First party response to the grounds of appeal**

The first party has not responded to the grounds of appeal.

## **7.0 Assessment**

7.1. It is considered that the main issues arising from the appeal are as follows: -

- Compliance with policy
- Height scale, density and design of building
- Impact on residential amenity
- Environmental Impact Assessment
- Appropriate Assessment

## **7.2. Compliance with policy**

7.2.1. The Core Strategy of the current Cork City Development Plan 2015-2021 includes two goals which are considered relevant to the proposed development. Goal 1 seeks to increase population and households to create a compact and sustainable city.

Goal 2 seeks to achieve a higher quality of life, promote social inclusion and make the city an attractive and healthy place to live, work, visit and invest in. Various objectives are consistent with this overall theme such as Objective 6.1 (a) to encourage the development of sustainable neighbourhoods and 6.14 to encourage the use of derelict and underused land and buildings to assist in their regeneration. The Zoning objective for Z02 seeks to support the retention and expansion of a wide range of commercial, cultural, leisure and residential uses in the commercial core area. All uses, including residential are permissible in principle in this zone. Objective 8.9 specifically encourages the use of vacant buildings/sites within the city by arts and cultural uses and the provision of purpose-built student housing is an objective of the development plan.

- 7.2.2.** It is considered that the proposal to replace a redundant cultural building, the Kino, which has formed an integral part of the cultural and artistic character of Cork City, with a new building which provides for a replacement cultural venue combined with student housing, in this area is appropriate. The area is characterised by mixed uses, including established student housing developments, with excellent accessibility to local services, the city centre, employment opportunities, UCC and to public transport facilities, and is therefore consistent with the Core Strategy and strategic housing and zoning objectives for the area. It is also considered that it is consistent with national policy to make the most sustainable use of existing serviced urban land to create sustainable neighbourhoods.
- 7.2.3.** The Development Management Chapter (16) of the Plan contains further policies in relation to appropriate densities, plot ratios, accessibility and design/quality of layout. It is stated (16.42) that residential densities in the city centre are likely to be greater than 75 dwellings per hectare and that the density will respond to the nature of the context, including plot ratios and other design considerations. Plot ratios in the city centre can be between 1.5 and 2.5. However, Section 16.16 guards against reliance purely on plot ratio and requires consideration of matters such as scale, building height, enclosure ratio, space provision and quality and street widths etc. The emphasis is on the design of such development reflecting the existing character and built form, being compatible with the design and scale of adjoining buildings, protecting the residential amenity of existing properties and ensuring adequate

amenity for future occupiers. These matters will be discussed in the following sections.

### **7.3. Height, scale, density and design of building**

- 7.3.1.** The site is a rather unique one in many ways. The site area is very small at 290m<sup>2</sup> and the existing building covers the entire site. However, the scale and height of the building is more akin to a warehouse which is out of sync with the prevailing pattern, density and height of buildings in the vicinity. The ridge height of the existing warehouse structure is c. 6.5m with an additional parapet feature of 8.5m. However, the buildings on either side are generally 3-4 storeys in height with parapets of c.12m. The former Kino site is also surrounded on three sides by very narrow streets/lanes with residential properties, including windows to habitable rooms overlooking the site at a very close distance.
- 7.3.2.** A residential development of terraced 2-storey houses, Washington Court, is located immediately to the north and includes the side elevation of Unit No. 9 and the front elevation of Units No. 10 and 11, with windows directly facing the site at a remove of c.4.56m. The eastern boundary of the site is located c.4.48m from the side elevation of No. 23 Washington Street, which has several windows at the rear (NW corner of that building). To the west, the site faces the side elevation of No. 22 Washington Street at a distance of c.6.6m on the corner of Little Hanover St and Washington St. Thus, the pattern of development in the area is varied and presents challenges for the successful integration of a new taller building which addresses the streetscape of the main thoroughfare whilst respecting the nature and scale of the residential development to the rear.
- 7.3.3.** It is proposed to construct a building which will generally follow the same footprint as the existing, (with the inclusion of some footpaths around the building), but with a height at more than double the existing building height. The proposed development has a plot ratio of approx. 1:3, (excluding the roof terrace), which is above the recommended plot ratios for the area of 1.5-2.5. However, these plot ratios are indicative and as stated, previously, are just one element of scale to be considered. The proposed height of the main structure would be c.13.26m, with the lift shaft/core area bringing the total height to c.15.96m at the NW corner. The overall height and scale of the building would generally be consistent with the pattern of development



on Washington Street and would enhance the streetscape here. The scale of the building will be much greater than that at present on Gravel Lane particularly on the northern section. It is noted, however, that several recent developments completed and/or permitted in the general vicinity of the site have been of a similar scale and height to that currently proposed, such as Lancaster Hall on Little Hannover Street and the development of the Square Deal site on Washington Street (307364). Thus, the area is one in transition and the redevelopment of a vacant site with a disused building for a mixed use incorporating residential and reinstatement of the cultural use at this location is to be welcomed.

- 7.3.4.** Objective 9.32 of the Development Plan specifies the matters that should be taken into account in designing a new development in an ACA. These include that the development should be of an acceptable design, scale, materials and finish for a new development and that original materials are used. In terms of the elevational treatment, the approach is contemporary, yet respectful of its setting within an Architectural Conservation Area. The materials are predominantly red brick with a grey brick at ground floor level, which is generally consistent with the design, materials and finishes of nearby buildings. The incorporation of an active ground floor use with ground floor elevational treatment directly addressing both Washington Street and Little Hanover Street is also considered to be appropriate. It is noted that the P.A. Conservation Officer raised no objections to the proposed development and that the Area Planner was satisfied that the design and materials used would successfully integrate the building into the streetscape and that it would not interfere with any protected views.

#### **7.4. Residential amenity**

- 7.4.1.** The main concerns of the appellant related to overlooking and overshadowing from the windows on the north-eastern corner and the potential nuisance from the proposed roof terrace.
- 7.4.2. Overlooking** - It is considered that the proposed building has been designed to minimise the effects of overlooking. However, there is the potential for a slightly increased degree of overlooking from some of the study-bedroom windows on the northern and eastern elevations. The proposed windows to Bedroom 1 (first floor), Bedroom 6 (second floor) and Bedroom 11 (third floor) will overlook opposing

windows in No. 9 Washington Court. The proposed windows to Bedrooms 2, 7 and 12, respectively, would also overlook the windows to the rear of the appellant's property (No. 23 Washington St) and Nos. 10 and 11 Washington Court, but these three windows would be located at an oblique angle. The appellants windows are also recessed and either face south or west. There are also several ensuite or bathroom windows proposed, as well as windows to a security office, a laundry and a resource room on the proposed northern and eastern elevations.

**7.4.3.** Several of these windows have the potential to result in a loss of privacy, particularly to the occupiers of No. 9 Washington Court. However, the southern elevation is the side gable wall of that property and not a principal elevation. It is noted that no objections have been received from the occupiers of these houses. It is considered that in the context of a densely developed urban location such as this, it would not be unusual for an apartment building to overlook neighbouring windows, particularly at an oblique angle in this way. I noted from my site inspection that the windows of these properties generally had curtains drawn and or security shutters applied. It is considered that the windows to the ensuites and non-habitable rooms should be required to be fitted with obscure glazing, but this solution would not be appropriate for the study bedrooms as this would remove any potential outlook from such rooms. Notwithstanding this, it is considered that the window cill heights of these study bedrooms should be required to be at least 1200mm above the floor level of the room, which would minimise the extent of direct overlooking, yet allow for an outlook from these rooms. Thus, it is considered that subject to these amendments there would be no significant loss of amenity from any increased potential for overlooking from the proposed development of adjoining properties.

**7.4.4. Overshadowing** - The proposed building is located to the south of the houses at Washington Court and to the west of the appellant's property. Washington Court windows are in close proximity (c. 4.5m), but the windows at the rear of No. 23 Washington Street are further recessed. The appellant has estimated a distance of c.8m between the west-facing windows of his property and the proposed study bedrooms. It is considered that the proposal would be likely to result in some degree of overshadowing of the neighbouring properties, which is of some concern. No Shadow analysis/daylight study has been provided in respect of the impact on

adjoining properties. As such, the Board may wish to seek such further information prior to determination of the case.

**7.4.5.** Notwithstanding the previous comments, I would agree with the planning authority's assessment that the degree of overshadowing is unlikely to be excessive or unusual in this densely developed urban setting in the central area of the city. Furthermore, the existing building is vacant and in a semi-derelict condition and at present, has large unattractive blank walls facing the existing windows of these residential properties, which are already overlooked and overshadowed to some extent. It is arguable, therefore, that the proposed development would improve the outlook from these residential properties which would in some way compensate for any additional loss of light or privacy.

**7.4.6. Roof terrace** - I would agree that the provision of a roof terrace associated with student accommodation could be potentially a source of nuisance, noise and disturbance. The accommodation is in the form of a purpose-built facility, which is in line with the national and local objectives to provide managed, purpose-built student accommodation and to reduce reliance on the private rented sector. Thus, the provision of this type of managed accommodation would provide for much greater control in terms of protection of residential amenity than the alternative unmanaged private rented accommodation. The first party has stated that it is their intention to engage an established student management company to run the student accommodation in its entirety, including the employment of a house manager and a night concierge, (Section 5.1 of Planning and Design Statement submitted with planning application).

**7.4.7.** The number of bedspaces is quite small (17), and each floor has a shared living space with 5-6 bedspaces sharing each communal area. The design of the roof terrace with a generous landscape buffer around the perimeter would prevent overlooking and minimise any impacts outside the site. These factors, together with appropriate management on a 24-hour basis by on-site professional management, would help to protect the residential amenities of adjoining properties. However, given the close proximity to several residential properties, it is considered that the use of the roof terrace should also be restricted outside of the hours of 22.00 to 0800, which could be included in the finalised management plan which should be agreed with the planning authority

- 7.4.8.** It is considered that should the Board be minded to grant permission appropriately worded conditions requiring a management agreement and restricting the hours of use of the roof terrace should be attached to any such permission.

## **7.5. Environmental Impact Assessment**

Having regard to the nature, size and location of the proposed development, 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.

## **7.6. Appropriate Assessment**

Cork Harbour SPA lies approx. 7 km to the east and Great Island Channel lies approx. 10km to the east. Given the distances involved, that the site is located in an established urban area, on serviced lands, it is considered that no appropriate assessment issues are likely to arise.

## **8.0 Recommendation**

- 8.1 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**

- 9.1. Having regard to the provisions of the Cork City Development Plan 2015-2021, to the scale and nature of the proposed development and to the nature and character of the surrounding environment, it is considered that subject to compliance with the conditions set out below, the proposed development would be an acceptable form of development at this location and would not seriously injure the amenities of the area. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 10.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars submitted the 3<sup>rd</sup> day of July 2020, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

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

2. The proposed development shall be amended as follows:
  - (a) The windows to the bathrooms and ensuites on the northern and eastern elevations shall be fitted with obscure glazing.
  - (b) The windows to the Security office, the Laundry Room and the Resource room on the First, Second and Third Floors respectively, on the eastern elevation shall be fitted with obscure glazing.
  - (c) The windows to study bedrooms 1, 2, 6, 7, 11 and 12 respectively on the northern and eastern elevations shall have a minimum cill height of 1.2 metres.
  - (d) A minimum of 18 no. bicycle spaces shall be provided within the development.
  - (e) Dropped kerbing and tactile paving shall be provided at the north-western corner of the building adjacent to the junction of Little Hanover Street and Gravel Lane.

The revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development

**Reason:** In the interest of the protection of the residential amenities of the adjoining properties and in the interest of traffic safety.

3. (a) The proposed development hereby permitted shall only be occupied as student accommodation, in accordance with the definition of student accommodation provided under section 13(d) of the Planning and Development (Housing) and Residential Tenancies Act 2016 and shall not be used for any other purpose without a prior grant of planning permission for change of use.

(b) Full details of the hours of operation of the proposed performance area and café/bar shall be submitted to and agreed in writing with the planning authority prior to the commencement of development. The unit shall not be used for the sale of hot fast food or intoxicating liquor for consumption off the premises.

**Reason:** In the interest of residential amenity and to limit the scope of the proposed development to that for which the application was made.

4. The management and maintenance of the proposed development following its completion shall be the responsibility of a legally constituted management company. A management scheme providing adequate measures for the future maintenance of public open spaces, roads and communal areas shall be submitted to, and agreed in writing with, the planning authority prior to occupation of the development.

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

5. The proposed development shall be implemented as follows:
- (a) The student accommodation and complex shall be operated and managed in accordance with the measures identified in a finalised Student Accommodation Management Plan which shall be submitted to and agreed in writing with the planning authority prior to first occupation of the development.
- (b) Student Housing Units shall not be amalgamated or combined.

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

6. Access to the proposed roof terraces and amenity use thereof shall be restricted between the hours of 2200hrs and 0800hrs.

**Reason:** To protect the residential amenities of property in the vicinity.

7. The noise level shall not exceed 55 dB(A) rated sound level (i.e., corrected sound level for a tonal or impulsive component) when measured at any external position at the nearest noise sensitive location between 0800 and 2000 hours, Monday to Friday inclusive, and shall not exceed 45 dB(A) at any other time. Procedures for the purpose of determining compliance with this limit shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** To protect the residential amenities of property in the vicinity of the site.

8. Details of the materials, colours and textures of all the external finishes to the proposed development shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interest of visual amenity.

9. Details of proposed signage associated with the performance venue, the café/bar and the student accommodation shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interest of visual amenity.

10. Details of all security shuttering, external shopfronts, lighting and signage shall be as submitted to and agreed in writing with, the planning authority prior to occupation of the development.

**Reason:** In the interest of the amenities of the area/visual amenity.

11. Public lighting shall be provided in accordance with a scheme details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Such lighting shall be provided prior to the making available for occupation of any unit.

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

12. No additional development shall take place above roof parapet level, including lift motor enclosures, air handling equipment, storage tanks, ducts or other external plant, telecommunication aerials, antennas or equipment, unless authorised by a further grant of planning permission.

**Reason:** To protect the residential amenities of property in the vicinity and the visual amenities of the area.

13. Prior to the occupation of the development, a Mobility Management Strategy shall be submitted to and agreed in writing with the planning authority. This shall provide for incentives to encourage the use of public transport, cycling, walking and carpooling by residents/occupants/staff employed in the development and to reduce and regulate the extent of parking. The mobility strategy shall be prepared and implemented by the management company for all units within the development.

**Reason:** In the interest of encouraging the use of sustainable modes of transport.

14. The road network serving the proposed development, including junctions, surfaces, parking / set-down areas, footpaths and kerbs shall be in accordance with the detailed construction standards of the planning authority for such works and the design standards outlined in DMURS. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.



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

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

16. Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Saturdays inclusive, and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

**Reason:** In order to safeguard the residential amenities of property in the vicinity.

17. Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the “Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects”, published by the Department of the Environment, Heritage and Local Government in July 2006. The plan shall include details of waste to be generated during site clearance and construction phases, and details of the methods and locations to be employed for the prevention, minimisation, recovery and disposal of this material in accordance with the provision of the Waste Management Plan for the Region in which the site is situated.

**Reason:** In the interest of sustainable waste management.

18. 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.

19. The developer shall enter into water and wastewater connection agreements with Irish Water, prior to commencement of development.

**Reason:** In the interest of public health.

20. (a) The mitigation measures identified in the Flood Risk Assessment Report (3<sup>rd</sup> July 2020) submitted with the application shall be implemented in full. Any proposed changes to the measures shall be agreed in writing with the planning authority prior to the commencement of development on the site

(b) Prior to first occupation of any unit on the site, a Flood Emergency Management Plan shall be submitted to and agreed in writing with the planning authority. Such plan shall be subject to regular review by the management company for the development.

**Reason:** In the interests of public health and safety

21. The site shall be landscaped in accordance with the detailed comprehensive scheme of landscaping, which accompanied the application submitted, unless otherwise agreed in writing with, the planning authority prior to commencement of development.

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

22. A plan containing details for the management of waste (and, in particular, recyclable materials) within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials for each apartment unit shall be submitted to, and agreed in writing with, the planning authority not later than 6 months from the date of commencement of the development. Thereafter, the waste shall be managed in accordance with the agreed plan.

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

23. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000. The contribution shall be paid prior to the commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to the Board to determine the proper application of the terms of the Scheme.

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

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Mary Kennelly  
Planning Inspector

17<sup>th</sup> December 2020