



An  
Bord  
Pleanála

**Inspector's Addendum Report**  
**ABP-313328-22**

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<b>Development</b>	Construction of new purpose-built research facility. An EIAR and NIS accompany this application.
<b>Location</b>	University College Cork, Distillery Fields, North Mall, Cork
<b>Planning Authority</b>	Cork City Council
<b>Planning Authority Reg. Ref.</b>	2140068
<b>Applicant(s)</b>	University College Cork and Tyndall National Institute
<b>Type of Application</b>	Planning Permission
<b>Planning Authority Decision</b>	Grant with Conditions
<b>Type of Appeal</b>	Third Party Appeal
<b>Appellant(s)</b>	Patrick Crowley
<b>Observer(s)</b>	None
<b>Inspector</b>	Susan Clarke

## 1.0 Introduction

- 1.1. This report is an addendum report to the Inspector's report (dated 6<sup>th</sup> December 2022) in respect of the construction of a research facility (ABP-313328-22.)
- 1.2. Following a meeting of the Board held on 11<sup>th</sup> July 2023 the Board sought submissions from the relevant parties under Section 137 of the *Planning and Development Act 2000, (As Amended)*. The notice issued states:

*The Board noted that since the lodgement of the application the Cork City Development Plan 2022-2028 (CDP) has come into effect and contains updated provisions on building height policy and objectives which would constitute material considerations with respect to the proposed development. Specifically, the Board noted Section 11.51 of the CDP, which states that:*

*"Tall buildings should only be developed in suitable locations identified in the development plan. Tall building proposals outside of the locations specified are not generally considered to be appropriate as they would likely conflict with the overall building height strategy for Cork."*

- 1.3. This report considers the submissions made on foot of the request for further information.

## 2.0 Response of First Party to the Board's Decision

- 2.1. The proposal does not materially contravene the CDP based on the facts that:
  - Section 11.51 provides inherent flexibility for the consideration of tall buildings as it notes that they are not "...**generally** considered to be appropriate." The inclusion of the word 'generally' allows for flexibility to consider the appropriateness of specific proposals having regard to their specific context and detailed design.
  - While the proposed building at its highest point falls within the CDP's definition of a 'tall' building based on the existing prevailing height in the overall North West Inner Urban Suburb, the immediate site context has several buildings of 5 or 6 stories.

- The proposed development performs well against the criteria of Assessing the Impacts of Tall Buildings.
- The Response outlines the proposed development's compliance with criteria for tall buildings: visual impact, functional impact, environmental impact and impacts on microclimate, cumulative impacts with other tall buildings, public access, application process, development guidance (Sections 11.53 to 11.60 of the CDP).
- The Response concludes by stating that the proposed development is not a material contravention and that there is inherent flexibility within section 11.51 of the CDP sufficient to allow the planning authority to assess development proposals, having regard to their specific context, and against the criteria for Assessment Impacts of Tall Buildings set out in section 11.53 to 11.60. In addition, the CDP calls out its support for the proposed Tyndall development on the North Mall within Objectives 3.25 and 7.3.
- Should the Board determine that the proposed development constitutes a material contravention of the CDP, the provisions of section 37(2)(a) allow for a grant of permission, and that the provisions of section 37(2)(b), if considered relevant, are applicable as the Tyndall National Institute is a development of strategic and national importance.

### **3.0 Response of Third Party to the Board's Decision**

- The subject site is not identified within a designated Tall Building Zone and as such the proposal should be considered inappropriate unless its height is reduced.
- The proposed development would adversely impact several landmark views including for example, the view of the iconic St. FinBarre's Cathedral from Sundays Well Road.
- The proposed development would dominant over the adjacent NIAH protected Cooperage Building.
- The proposal will negatively impact the extremely sensitive character of the riverside site.

- The site remains an Area of High Landscape Value surrounded by an Amenity Route in the new Development Plan.

#### **4.0 Response of Local Authority to the Board's Decision**

- Paragraph 11.51 of the Cork City Development Plan 2022-2028 (CDP) does not establish an absolute prohibition of tall buildings in unspecified locations. The language used in the paragraph — the word 'should' and the phrase 'are not generally' — provides flexibility for the consideration of tall buildings in other locations that are not covered by reference in paragraph 11.51 where circumstances allow. This wording is intentional, to allow for consideration of matters set out elsewhere in the CDP and in the accompanying Cork City Urban Density, Building Height and Tall Building Study 2021 (the Study), which must be read with paragraph 11.51 for appropriate context. Paragraph 11.51 is part of a suite of content in the CDP that is informed by the Study.
- The Study is not a blueprint; each case should be assessed on its merits.
- The subject development constitutes a tall building, however, a number of material considerations arise.
- While the prevailing building height on this site is relatively low, this is primarily a product of the historic uses and buildings on this site. It is also important to note that prevailing building height is applied to a broader area than any one particular site. The Study sets out that prevailing heights are considered at neighbourhood level.
- The subject site has its own unique context, located between a steep escarpment to the north and the River Lee to the south and east. The site has long-established visual, historic and institutional connections to the Cork city centre lands immediately across the river to the south and east, including the Tyndall National Institute (6 storeys), Mercy University Hospital (at 4-6 storeys) and riverside apartment buildings (5-6 storeys). Due to local steep topography, the subject site is more common in its character with these city centre lands than the more residential areas to the north of Sunday's Well Road.

- The character of the site lends itself more towards the "City Fringe, Primary Corridors and Major Urban Centres" zone, which would imply a building height target of 7 storeys, in which case no issue of a tall building arises. Notwithstanding the foregoing, the site shares its character with the nearby areas of the city centre island, and the proposed building heights would be in line with the prevailing building heights in the area, and in any case would not be considered tall when the formula set out in Chapter 6 of the Study is applied, and the matter of a tall building does not arise.
- Paragraph 11.51 of the CDP must be read in context with other relevant provisions of the Plan and Study, which provide context for the application of paragraph 11.51. Paragraph 11.51 does not prohibit the consideration of tall buildings outside of the areas identified in the CDP.
- The proposed development is therefore plan-led, informed by a detailed building height strategy that acknowledges that while target height ranges are set out for the city, each application must be assessed on its own merits as the four spatial zones identified for building height and density are extensive and include areas whose character contrast in form and function, and that it is essential that the design and form of new development proposals respond positively to this character. The CDP sets out criteria for such assessments.
- The proposed development conforms with the building height strategy.
- Were it to be considered that the development comprises a 'tall building', the CDP provides the mechanisms for the assessment and consideration of a tall building on the proposed development site, under paragraph 11.51 and the other relevant provisions of the CDP. Therefore, no issue of conflict with paragraph 11.51 arises in relation to the proposed development, and therefore no issue of potential material contravention of the CDP in terms of paragraph 11.51 arises.
- Cork City Council's determination of Application Ref, No. 21/40068 was based upon the now superseded Cork City Development Plan 2015. It is however the Development Management Section's opinion that, on balance, the proposed development would accord, generally, with the current Cork City Development

Plan 2022 — 2028 (CDP). Indeed the development continues to be plan lead (see Objectives 3.25 and 7.3 in the CDP).

- It is requested that the Board be cognisant that the proposed development is further supported by a current application, for a connecting bridge, between the existing Tyndall building and the North Mall site (Ref, No. 22/41675).
- It is respectfully requested that the Board uphold Cork City Councils decision to grant permission.

## **5.0 Further Responses**

### **5.1. First Party Further Response**

The First Party confirmed to the Board on 31<sup>st</sup> August 2023 that it has no further comments to make in respect of the case.

### **5.2. Third Party Further Response**

The Third-Party Appellant submitted a further response to the Board on 4<sup>th</sup> September 2023. The new key points can be summarised as follows:

- Both Cork City Council and Scott Tallon Walker Architects accept that the proposed development comes within the definition of 'tall building' as set out in sections 11.46 and 11.47 of the Development Plan. The Local Authority's argument that the site "the character of the site lends itself more toward the 'City Fringe, Primary Corridors and Major Urban Centres' zone, which would imply a building target height of 7 stories, in which case no issue of a tall building arises", is predicted on ignoring the explicit demarcation of the site of the proposed development within the Inner Urban Suburbs zone, is frankly ridiculous on its face and warrants no further discussion.
- The site is not similar in character to the urban landscape across the river. Once one traverses the NIAH protected Alderman Reilly Bridge onto the River Lee Walkway that encircles the site of the proposed development, one enters a realm of relative tranquility and calm, shielded from the bustling urban centres across the river by the foliage of the arboreal canopy that covers the walkway.

- Both Cork City Council and Scott Tallon Walker Architects seek to justify the height of the proposed development by comparing it to the buildings across the river. In doing so, they indirectly concede that the proposed development will "contribute to a canyon effect along the river".
- While it is conceded that section 11.51 of the CDP is not an absolute prohibition on the construction of tall buildings outside the four designated Tall Building Zones, it must be read in conjunction with section 11.52 which would appear to imply that tall building proposals may be considered in the City Fringe, Primary Corridors and Major Urban Centres zone, but not elsewhere.

### **5.3. Local Authority Further Response**

The Local Authority confirmed to the Board on 30<sup>th</sup> August 2023 that it has no further comments to make in respect of the case.

## **6.0 Assessment**

- 6.1.** At the outset, I reiterate that I recommended in my original report that permission be refused for the proposed development solely on the basis that the building would be considered a "tall building", and having regard to the fact that the subject site is not identified as a location for such buildings, it would be inconsistent with the CDP's building height and density spatial strategy.
- 6.2.** I note that the Local Authority argues that the character of the site lends itself more towards the "City Fringe, Primary Corridors and Major Urban Centres" zone which would imply a building height target of 7 storeys, and as such it is argued that under such a scenario the issue of a tall building would not arise. However, as highlighted by the Third-Party Appellant, the site is clearly located within the area: North West – 7, which the Study/Strategy states has a prevailing height of 2-2.5 No. storeys and a target height of 2-4 No. storeys (see Map 01.02,03 City Centre/Docklands attached in Chapter B of Volume 2 of the CDP). Whilst I made similar statements as the Local Authority with regards to the site's similarities to the city centre in my original report, I do not consider that there is any ambiguity with regards to the mapping. Furthermore, I note that the Local Authority has not highlighted any mapping error in their Response. As such, I consider it appropriate to continue with the assessment of the case on the

basis of the site being demarcated within the North West – 7 area, which has a target height of 2-4 No. storeys.

6.3. It is clear from review of the Responses that all parties to this case consider that the proposed building height falls within the definition of a “tall building”. In this regard, the Applicant has included an overview of the proposed development’s compliance with the criteria of ‘Assessing the Impacts of Tall Buildings’.

6.4. I highlight that Section 11.28 of the Development Plan states:

*This Plan sets out a combined building height and density spatial strategy, illustrated conceptually below in Figure 11.1. The strategy is comprised of four sub-areas, each with their own quantitative performance criteria. The density strategy is set out in Chapter 3 Delivering Homes and Communities. **The building height strategy is outlined in Table 11.1 and will be applied by Cork City Council when assessing development proposals.*** (Bold: My emphasis.)

6.5. Section 11.44 states:

*The Cork City Urban Density, Building Height and Tall Buildings Study 2021 provides the basis for the tall building strategy:*

- 1. The definition of a tall building in Cork City;*
- 2. **The identification of the City Centre Island Tip / City Docks as the strategic area considered to be suitable for tall buildings in Cork City on the basis of its suitability for the highest forms of high density developments and its inherent lack of sensitivities;***
- 3. **The identification of appropriate locations within the City Docks for tall buildings in principle, the area being large enough to include the four sub-location zones;***
- 4. **Cork City Council has identified five locations that are considered suitable for landmark medium rise buildings,** generally between 10 and 14 storeys, based upon the suitability of locations for higher density, being either regeneration areas or areas with strong suitability due to the proposed LRT corridor. These are Blackpool, Tivoli Docks, Victoria Cross, Mahon and Wilton.*



*Proposals will need to be developed through a master planning process, and the design process for the building may be subject to Design Review. (Bold: My emphasis.)*

6.6. Section 11.51 of the CDP states:

***“Tall buildings should only be developed in suitable locations identified in the development plan. Tall building proposals outside of the locations specified are **not generally** considered to be appropriate as they would likely conflict with the overall building height strategy for Cork.”*** (Bold: My emphasis.)

6.7. Section 11.52 states:

*“Tall buildings in other locations in the “City Fringe, Primary Corridors and Major Urban Centres” sub-area, which is for dense development that responds to mass transit provision, will be open for consideration insofar as the buildings might be tall compared to the prevailing heights of the area and therefore fall under the definition of tall buildings. **The City Docks Tall Building Zones are the only locations considered appropriate for this densest form of development in Cork.**”* (Bold: My emphasis.)

6.8. The subject site is not identified as such a location in the CDP for a tall building.

6.9. The Local Authority argues that the CDP’s language provides flexibility for the consideration of tall buildings in other locations that are not covered by reference in paragraph 11.51, where circumstances allow, and that the Strategy is not a blueprint but rather should be read with regard to other parts of the CDP.

6.10. The building height and density spatial strategy is a very detailed and prescriptive document that clearly identifies the areas where tall buildings would be suitable. I reiterate that the wording in Section 11.51 is “not generally”. I concur with the Third-Party that there is an explicit presumption against the construction of tall buildings outside of the designated zones. In my opinion, the location of a tall building outside of a designated area would be a departure from the strategy. As stated by the Local Authority in its Response, the areas identified for tall buildings in the CDP are extensive. There is no indication in the CDP that the subject site would be appropriate for such development. I do not consider that the Applicant has demonstrated that this development constitutes an exceptional case notwithstanding the Applicant’s

submission that the proposal is compliant with the criteria for Assessing Impacts of Tall Buildings.

- 6.11.** In my opinion, the provision of a six storey building on the site would be a deviation from the Study and would undermine its purpose and inclusion in the CDP to provide clarity to the public as to the future development of the City. I reiterate from my original report that the CDP has been subject to public consultation and reviewed by the OPR. In my opinion, the Board should limit its assessment to the wording of the CDP as adopted. The Applicant and Local Authority has not demonstrated that the proposed development constitutes a sufficiently exceptional case as to why a tall building at this location would be appropriate.
- 6.12.** Both the First-Party Appellant and the Local Authority contend that the proposed development does not constitute a material contravention of Section 11.51. The First-Party Appellant highlights the provisions of Section 37(2)(a) of the *Planning and Development Act 2000 (As Amended)*. In addition, the First-Party notes that Section 37(2)(b) is not applicable in this instance, as the Local Authority did not refuse permission for the development on the basis of it being a material contravention of the CDP. However, the First-Party Appellant highlights that Section 37(2)(b)(i) does make reference to the proposed development being of strategic or national importance.
- 7.0** In my opinion, while the provision of a tall building would be a deviation from the study and therefore would be inappropriate and inconsistent with the CDP, I do not consider this matter to be a material contravention due firstly, to the recommended building heights having the status of a target range as opposed to an absolute numerical restriction and the extent to which the proposed development exceeds the target heights for the area (i.e. part one-two storeys higher than the target height of 2-4 storeys). As such, I do not consider that the provisions of Section 37(2)(a) of the *Planning and Development Act 2000 (As Amended)* are relevant in this instance.
- 8.0** In conclusion, in my opinion, the Applicant's nor Local Authority's Responses raise any new matters for consideration that would amend my original assessment. As such, in my opinion, my original recommendation should be upheld.

## **9.0 Recommendation**

**9.1.** I recommend that Permission should be refused as per my original report.

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Susan Clarke

Senior Planning Inspector

21<sup>st</sup> September 2023