



An
Bord
Pleanála

Inspector's Report

ABP-313436-22

Development	Construct 18. no apartments over 3 floors (change of plan to that permitted in ABP ref 301618) specifically an additional fire escape and increase in bathroom size and ancillary facilities
Location	Pembroke Woods, Pembroke, Passage West, Co. Cork.
Planning Authority	Cork County Council.
Planning Authority Reg. Ref.	21/6713
Applicant(s)	Doneen Property Developments Limited
Type of Application	Permission.
Planning Authority Decision	Grant Permission.
Type of Appeal	Third Party
Appellant(s)	Darren and Martina McMahon
Observer(s)	None
Date of Site Inspection	9 th July 2022.
Inspector	Suzanne Kehely.

1.0 Site Location and Description

- 1.1. The site is substantially the same as described in the attached history file although site preparation works have commenced. It is 0.29 ha and is located in the centre of a housing estate off the Rochestown Road (R610) on the eastern approach to Passage West in County Cork. The town centre of Passage West is approximately 1.75 kilometres from the roundabout junction to the south east. The area is generally characterised as a low/ medium density suburban environment.
- 1.2. Estate roads bound the site; to the north, there is public open space as part of Pembroke Grove, to the west there are 2-storey semi-detached dwellings along Pembroke Park Drive, to the east there are two blocks of 3-storey duplex units. Car parking for the duplexes is located in a parking court to the rear of the blocks alongside the site. 'Doodlebugs' crèche, part 2-storey, part single storey building lies to the south with its car parking abutting the southern corner of the appeal site. Site preparation works had commenced at time of inspection and the site was fenced off by a solid painted metal sheeting and gates.

2.0 Proposed Development

- 2.1. The proposal is to construct 18. no apartments over 3 floors with a total floor area of 582.7 sq.m. at each level. It is a modification of plans of an extant permission for 18 apartments (previously reduced from 24) and seeks to provide additional fire escape stairs and an increase in accessible bathroom size. The proposal comprises:
- 18. no apartments over 3 floors – 6 at each level
 - 15 x two-bed and 3 x one-bed.
 - An increase in floor area as compared to the extant permission of 53.7 sq.m. at each level which provides up to c.10% increase in floor area in each apartment.
 - Bicycle storage is shown beside the entrance lobby in a 'covered' area.
 - Bin storage is shown in further information in a new structure northwest of the apartment block.
 - The ground floor includes storage lockers -clarified as not being for bicycles.

Associated development works include :

- access,
- car parking reduced by 1 space to 29. (3 spaces are shown in a bay alongside the public road to the north outside the site.)
- landscaping and amenity areas – 1285sq.m.

2.2. Further information and clarification was sought and in this, the nature of alterations to previously permitted development is clarified: The plans as clarified in overlay drawings and documentation show the proposed finished floor levels. Building height, depth and width are also modified. The following elements are specified:

- Additional floor area is driven by Building Regulations: e.g. the visitor's toilet is required in accordance with Section 34 of Part M Technical Guidance. In relation to egress, the Fire Officer's preference is for a second means of escape
- The increase in height is from 10.6m to 10.92m. (This is explained by reason of the extended width and corresponding increased apex height given the Gull wing design. The roof slope profile design is maintained.
- The permitted FFL was 14.25m and is proposed at 14.4m This is explained by a degree of inaccuracies in the order of 100mm to 200mm in actual levels during site preparation works and the need to allow the proposed development to sit correctly with surrounding ground level.
- Increase in width of building including balconies from 18.8m to 21.94m and excluding balconies for 15.7m to 18.1m. The increase in width of 3.14m is driven by the width of the fire escape stairs at 3.3m.
- The elevations are modified with changes from cantilevered balconies and new windows to additional stairwell in the south elevation. there is no reduction in Cedral Cladding it is explained that it was not located on the end but on the central section was not previously visible on the SW elevation.
- The handrail is set at 1100mm above the finished roof level for health and safety reason and explains the increase of 89mm.
- The height difference of the proposed apartment block relative to the existing duplex unit is explained. The proposed roof level of the apartment building is 25.325m (14.4m+10.925) . The existing apex of the duplex building is 25.7m. and the apartment building is 375mm below this. In the original design the roof of the apartment was 200mm below the apex of roof of the duplex unit.

- Changes in balconies from permitted: It is explained that the balconies were previously cantilevered but due to the restricted floor depth this is structurally not feasible. (To construct cantilevers would require a deeper floor structure and would increase the height of the building.) Posts have been added to the external line of the balconies to allow the structure to be built with a minimum structural depth to avoid this increase in height.
- Omission of one car park space: It is clarified that the original area in the site layout for 30 spaces has been revised to provide for a disabled space and this reduces the spaces to 29, however the setback north of the site provides for 3 spaces which provides for a total of 32 spaces.
- New bin store : A drawing is attached, and it is stated that this matter in addition to the bicycle parking can be addressed as a compliance submission.
- Lockers: It is explained that the lockers are 850mm x 950mm x 2.1m and are not for bicycles. the lockers are in line with Sustainable Urban Housing: Design for New Apartment Guidelines.
- Bicycle parking will be provided in an external covered area.
- Ownership: In clarification of further information it is confirmed that the site was purchased by Unique Fitout in 2016 and is an associated company of Doneen Property Development Ltd. within a group structure which subsequently was acquired in the form of Unique Fitout in 2020.
- Public open space: Area is clarified as being 1285 sq.m. which excludes the bin storage. (The previously permitted area had a stated area of 1153sq.m.) The discrepancies between permitted and proposed floor area and residual public open space is clarified - the original public open space calculation excluded some areas which have now been factored into the equation.(e.g. play area, area north of the building between public road and building and area between play area and public road and car parking to the east.)

2.3. Revised site notices were submitted on 24th January 2022.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. By order dated 6th April 2022 the planning authority decided to grant permission subject to 27 conditions.

1. Condition compliance with drawings as varied.
2. Compliance with ABP 301618
3. To agree Part V compliance
4. Details of materials and finishes
5. Public lighting in accordance with CCC
6. Public lighting in accordance with CCC
7. Public lighting in accordance with CCC
8. Demolition and construction wheel washing
9. Foul drainage Irish Water
10. CEMP
11. Construction noise and vibration
12. No dust, mud etc from site on footpaths /roads
13. Construction parking
14. Clean roads
15. No burning of waste on site
16. Foul sewerage to public sewer
17. No ground water to public sewer
18. No Surface water to foul sewer
19. Construction traffic management
20. Management company for apartments
21. Storage of fuels etc during construction
22. No dust debris – dust limits
23. No noise during construction
24. Fuel tanks and fuel filling on site to be bunded.
25. Waste management during construction
26. On site wastewater management during construction
27. Section 48 contribution

3.2. Planning Authority Reports

3.3. Planning Reports

The report notes the development plan and history context –

the site is in the settlement boundary of Passage West identified in the Ballincollig Carrigaline Municipal District Local Area Plan, 2017.

3.3.1. The extensive planning history the current 'live' permission on site for a mixed-use neighbourhood centre (Reg. Ref. 08/9094 / PL04.233744) and the extension of duration (Reg. Ref. 14/6127).

3.3.2. Changes are noted:

- Increase in height from 10.6 to 10.681m and 10.8.
- Decrease in length of balconies and side elevation reveal and widening from 18.8m to 21.945. The increase in footprint raises question in extent of public open space.
- While no concerns about the cladding and fenestration and balconies there is a query as to the need to raise floor levels and overall height. IT is also noted that the apartment block is now 29.4m from the creche as compared to 31m.

3.3.3. Further information was sought in respect of:

- Increases in floor levels and height.
- Increase in length of building and balconies.
- Changes in cladding.
- New windows in side elevation.
- Changes in balconies.
- Omission of one car park space.
- Materiality of revision sought and need for new public notices.
- Cumulative impact of increased bulk and height on residential and visual amenities.
- Clarification of amount of public open space.
- Clarity of footprint alteration by way of site layout drawings superimposed on permitted layout,
- Provision of 30 car park spaces as required by parent permission (condition 3).

- Compliance with condition 4 in respect of provision of bicycle storage – (concerns about parking inside entrance lobby). Clarity of use and dimensions of proposed lockers in lobby is also sought.
- Details of bin storage.
- Breakdown of floor areas totalling 534.1 sq.m.
- Clarification of floor areas sought to be increased - e.g. to which area(s) the proposed 48.6sq.m. relate. E.g. Per level or combined.

- 3.4. Clarification of further information was sought on 16th February 2022 in respect of
- Documentary evidence of site acquisition
 - Rationale for increase in public open space of 132 sq.m.

The responses are considered to address the issues and there is no objection subject to conditions including all those recommended in the internal reports.

3.5. Internal Reports

- 3.5.1. Area Engineer: no objection to reduction in car parking by 1 although condition 3 of the ABP 301618 decision requires 30 spaces. Considers the application is bound by the terms of that decision and so sought a revised layout with additional car park space. Bicycle parking such as internal parking is not clear and needs clarification.
- 3.5.2. Housing, Senior Engineer, (22/3/22) Further information was required to establish ownership and application for Part V. In final report dated, it is stated that a letter from solicitor is not sufficient documentary evidence and permission would therefore only be granted on the basis that 20% of the development is provided to meet part V

obligations with units to be agreed with the housing department of the county council.

3.5.3. Public Lighting: (21/3/22) It is noted that lighting appears to have been agreed as part of the original permission. No objection subject to conditions in previous reports on the application

3.5.4. Environment: 30/3/22 no further comments to report of 15/2/22 which sets out 7 construction related conditions.

3.5.5. Estates Primary Report 19/1/22 No objection subject to conditions regarding parking, construction traffic and management company

3.6. **Prescribed Bodies**

Irish Water: No objection

Inland Fisheries Ireland: No objection

3.7. **Third Party Observations**

A number of objections were submitted to the planning authority. Concerns raised are similar to those raised in the third-party appeal.

4.0 **Planning History**

ABP Ref. 301618. This is the parent and extant permission to which the subject proposal relates. Permission is for construction of 18. no apartments over 3 floors and all associated development works.

The proposal was revised by way of Further Information to comprise 18 no. apartments served by 30 number car parking spaces. Four one bedroom and 14 number two-bedroom apartments. (3 apartments @ 51.7 sq. m, 1 apartment @ 50.2 sq. m and 14 apartments @ 79.5 sq. m)

Conditions

1. Standard.

2. Details of materials etc to be agreed
3. 30 car park spaces to be provided and location layout to be agreed.
4. Details showing compliance with the following requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development:- (a) the internal bin store to be omitted, (b) a bike storage room shall be proposed in place of the internal bin store, (c) proposals for bike storage in the lobby shall be omitted and the resulting area kept clear, (d) a new external bin store shall be located to the northwest of the building and south of the three car parking spaces to the north of the site. It shall be covered, secure, accessible and surrounded by a timber fence and hedge. Reason: In the interest of visual and residential amenity
5. Water and supply and drainage
6. Construction management to prevent spillage etc.
7. Construction hours
8. Construction management plan
9. 20 bicycle parking spaces to be provided. Details of layout to be agreed.
10. Public open space as per lodged plans and 100 sq.m play area to be completed prior to occupation.
11. Public lighting.
12. Landscaping – plan 1:500 showing details
13. Details regarding speed control, public footpath and maintained of roads/footpaths and open space and boundaries and other services. Photographic records of roads being used and post completion.
14. Management company.
15. Mobility Management strategy.
16. Service cables.
17. Part V.
18. Security bond/cash deposit or other.
19. Section 48
20. Section 48 2 (c) off-site recreational facilities in line with adopted Recreation and Amenity policy

Reg. Ref. S97/4695 – The planning authority granted permission for a residential development of 445 no. dwelling units (reduced to 417 by condition)

PL 04.126423 / Reg. Ref. S/01/3327 permission refused by the Board (5/3/2002) for development comprising the changing of three number duplex blocks consisting of 18 duplex units and 18 duplex apartments (blocks 4, 6 and 8) to three number apartment blocks consisting of 54 number apartments (previous planning register reference number S/97/4695) at Pembroke Avenue, Pembroke Woods, Pembroke, Passagewest, County Cork for the following reason:

‘It is considered that the proposed development would be deficient in quality, in particular, having regard to the design of the apartments and to the provision of parking, including, the amendments to the overall layout proposed in the submission to the Board. Accordingly, it is considered that the proposed development would provide a poor quality residential environment and would be contrary to the proper planning and development of the area’.

PL04 .130785 / Reg. Ref. S/01/6933 Permission granted (16/04/2003) for a Creche, 3 no. commercial/retail units including foodstore and medical/beauty therapy centre, offices, public house and restaurant at Pembroke Woods, Pembroke, Passage West, Co. Cork.

Reg. Ref. 05/2237 Permission granted to use the entire building on the southern side of the site as a creche.

PL04.233744 / Reg. Ref. 08/9094 Permission Granted (16/10/2009) for a mixed-use neighborhood centre development including cafe, office/ medical floor space, 18 no. apartments and all associated works.

Reg. Ref. 14/6127 Permission Granted for extension of duration of PL04.233744 / Reg. Ref. 08/9094.

5.0 Policy Context

5.1. Section 28 Ministerial Planning Guidelines

5.1.1. The following Section 28 Ministerial Guidelines are considered to be of relevance to the proposed development.

- Sustainable Residential Development in Urban Areas, Guidelines for Planning Authorities, 2009, and the accompanying Urban Design Manual: A Best Practice Guide, 2009 (Sustainable Residential Development Guidelines);
- Sustainable Urban Housing, Design Standards for New Apartments, Guidelines for Planning Authorities, December 2020 (Apartment Guidelines);
- Urban Development and Building Heights, Guidelines for Planning Authorities, December 2018 (Building Height Guidelines);
- Design Manual for Urban Roads and Streets, December 2013 (DMURS); and
- The Planning System and Flood Risk Management, Guidelines for Planning Authorities, 2009 (Flood Risk Guidelines).

5.2. Development Plan

5.2.1. The Cork County Development Plan 2022-2028 applies and within this plan the site is zoned 'Existing Residential/Mixed Residential and Other Uses.' In the Passage West settlement area. It is part of parcel of 122.5hectares. It is in a 'high value landscape.'

5.3. Natural Heritage

The site is approximately 550m from Cork Harbour SPA (Site Code 4030) and Great Isalnd Channel SAC (Site Code 001058).

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. The third-party appeal has been submitted by Darren and Martina McMahon, residents in Pembroke Park Drive and while accepted that the development will go ahead, matters of detail as previously conditioned etc, should, it is argued, remain as required rather than an incremental erosion of all such requirements that followed previous third party input. The grounds relate to the following matters:

- The changes are more than as described and include elements that were previously opposed.
- The new bin storage is in a format previously objected to
- The bike storage has changed and in terms of location and type.
- The gravel filled area is to be extended along the whole way in front of the duplex units.
- Reduced car parking spaces from 30 to 29 but include 3 new spaces along the north boundary to the site and is not mentioned – it is along a busy road.
- The new building is closer to the creche facility and to houses along Pembroke Park by almost 3m.
- Procedural issues in relation to accuracy of drawings/areas, unauthorised construction, construction duration and site ownership.

6.2. First Party Response

- No response

6.3. Planning Authority Response

- Issues considered to be addressed in PA documentation. No further comment on appeal grounds.

7.0 EIA

The proposal is for relatively minor variations to a permitted scheme previously excluded from the requirement for EIA. 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.

8.0 Assessment

8.1. Issues

8.1.1. The proposal relates to modifications to a permitted apartment scheme and so the principle of an apartment scheme is not at issue. The key issues relate to impact on residential amenity having regard to revised scale of the building and revisions to layout. In addition to Appropriate Assessment, at a detailed level, the appeal issues relate to:

- Scale and impact on amenity
 - Encroachment on open space
- Changes to bin storage and bicycle parking
- Loss of car parking
- Procedural: accuracy of details and unauthorised and protracted construction.

8.2. Scale and impact on amenity

8.2.1. The applicant explains in some detail that the proposal addresses matters of compliance with the building regulations and fire escape requirements. The increase in bathroom spaces and associated modified layout provides for improved and compliant access (e.g. accommodating wheelchair access and door closure) while the fire escape stairwell provides a required means of escape in line with Chief Fire Officer's recommendations. The effect of integrating these provisions within the design has resulted in modest increases in the bulk of the building. Accordingly, I

consider the principle of modification on this basis is reasonable and the issue is whether or not the associated massing and elevational revisions would seriously injure residential amenity for the surrounding residents.

8.2.2. The neighbouring residents are concerned about the proposed increase in height and bulk of the development as a consequence of the variations. The planning authority raised this matter with the applicant in a request for further information as there was a noted variance of Finished floor levels from 14.25mOD to 14.4m. the actual increase in height was also noted to increase from 10.6m to 10.92m. This variance in FFL of around 100 -200mm is explained as being reflective of the actual levels during site preparation works and the need to allow the development to sit correctly within the surrounding ground level. The increase in the building height is explained as being consequent on the extended width and corresponding increased apex height given the Gull wing roof design and the approach to maintaining the roof slope profile.

8.2.3. The case is made that it is imperceptible in terms of visual impact as explained by reference to the height difference of the proposed apartment block relative to the existing duplex unit. The proposed roof level of the apartment building is 25.325mOD (14.4m+10.925m) . The existing apex of the duplex building is 25.7mOD. and so the apartment building is 375mm below this. The applicant points out a further contextual fact – in the previously permitted design, the roof of the apartment block was 200mm below the apex of roof of the existing duplex unit.

8.2.4. I consider in this case that the increase in height is modest by itself and in a wider topographical context. In terms of scale I further note in the previous appraisal of the scheme (permitted in 2019) that the proposal was at that time 23% smaller (ground floor area) than a permitted scheme on the site and that proposal still remains within the original parameters. The apartment roof height is being reduced in relation to the other existing duplex units.

8.2.5. I also consider that the increase in width of the building from 18.8m to 21.94m, (15.7m to 18.1m excluding balconies), can be visually absorbed in the local environs. I say this having regard to the nature of the modelled façade incorporating balcony

supports and the also the retention of the gull roof profile. I furthermore consider the rationale, as explained by the need for a 3.3m wide fire escape while providing 18 generously sized apartments underlines a quality design approach. It is not a case of trying to cram in additional units of minimal floor area.

8.2.6. I consider the rationale for the modification is reasonable and I consider associated increases in building bulk to be within acceptable limits in terms of harmonising with surrounding development which includes duplexes and a crèche building of comparable heights.

Encroachment of Open space

8.2.7. The neighbouring residents also raise concerns about the encroachment into open space by 3m into the separation distance . I note that this is only intermittently encroached and that generous setbacks are maintained on all sides. The angled set back of the west elevation is maintained and with what I would consider as only a marginal encroachment on the permitted setback from the western boundary where there is intervening open space between the road and the apartments. I note the previously permitted separation distances of 29.4m between the proposed apartment block and the existing duplex apartments to the east is reduced to 28.18m at the nearest point (the balcony) , the nearest 27.8 m separation distance to the existing houses to the west is reduced by approximately around 1.8m and a separation distance of some 32m from the creche Doodlebugs is also reduced by less than 1m. (see 'footprint position – permitted site layout with the proposed', Drawing L699-011 submitted 13th Jan 2022.)

8.2.8. I consider the setback on all sides where it interfaces with the existing housing and crèche facility to be more than adequate to protect privacy and amenities. I further note that the proposed additional windows at each level relate to the new fire escape stairwell and can be obscured (as proposed by the applicant) to inhibit overlooking and are not therefore a significant source of overlooking. Nor do I consider the overall design quality has materially altered to the extent that would be

appreciably different in design quality. The agreement of materials finishes will safeguard this.

8.2.9. The appellant also raises concerns about the loss of open space and soft landscaping. I note that the applicant clarifies that while there is a marginal encroachment in open space, the actual calculated area is in fact marginally higher than previously calculated. It is 1285 as compared to the stated and accepted amount of 1153 sq.m. in the extant case. I note that the provision of a playground is not compromised and that the open space to the north remains as such. I further note the provision for attenuation of surface water. In terms of landscaping detail, while the appellant raises concerns about the extent of gravel, I consider this is a level of detail that can be agreed with planning authority. The extended gravel area appears to match with existing and facilitates a tying in of design detail between existing and proposed. The landscape plan appears broadly in line with the that submitted to the planning authority in the in the attached history file 26th March 2018 which shows a mix extensive open space shaded green, an avenue of trees, shrub planting, playgrounds enclosed by decorated painted railings and footpaths.

8.2.10. I consider accordingly the proposed development remains substantially within the quantitative and qualitative parameters that formed the basis of the extant permission. The amenities in a wider context are also safeguarded by the inclusion of (an undisputed) s.48 (2) c special contribution for open space which will benefit the area. I do not consider the provision of open space has been compromised in any material manner by the proposed development.

8.2.11. Having regard to the nature and scope for the apartment block permitted in the extant permission for the site I consider the nature and scale of the proposal is compatible with the existing pattern of development I do not consider the scale and modifications to the building design in this context to detract from the visual amenities of the area or otherwise seriously injure residential amenities of the

surrounding properties. I consider the proposal to accord with the provisions the County Development Plan.

8.3. Bin Storage and Bicycle parking

8.3.1. The changes in the bin store are stated by the appellants to be in a format previously opposed to. I note the initial submitted layout plan shows the bin store to the northeast of the proposed apartment building whereas condition 4 in the Board's decision (ref.301618) required this to be sited to the north west of the apartment block. In further information the matter is addressed: the applicant has submitted a drawing date stamped (11/3/2022) which shows a small building now to the northwest of the apartment and the building at the car park entrance is omitted. The further information does not explain why condition 4 has not been fully complied, e.g. in respect of providing the required enclosed bicycle parking shed, other than to state that covered parking is proposed which I note is beside the entrance door. It is also clarified that lockers in the lobby are not for bicycles as evident in the given dimensions(850mm x 950mm x 2.1m) and which are provided on line with current guidance (Sustainable Urban Housing: Design for New Apartment Guidelines). The applicant's proposal that this issue can be addressed at compliance stage is acceptable.

8.3.2. There would appear to be no basis to depart from the previous decision in this regard and I would similarly recommend that the bicycle parking be within an enclosed and secure building in place of the enclosed bin store at the entrance to the car parking as previously conditioned and as included in the original site layout plan submitted with this application. Visitor bicycle parking should I consider be also provided at the building entrance as indicated in the drawings or perhaps on one side only, for added convenience and to encourage use of bicycles. I would also propose that the communal bin store as revised to the northwest be sited at least

10m from the apartment building to minimise disturbance for future residents at ground level in particular.

8.3.3. I consider that subject to conditions adhering to my comments above that the proposed ancillary facilities are reasonable and acceptable and in accordance with good design practice and would not seriously injure amenities in the area.

8.4. Loss of car park space

8.4.1. The appellant is concerned about the reduction of car parking when 30 spaces were required by condition in the Board's decision. The planning authority are noted by appellant to have taken the matter seriously in ofh the condition. However I understand this to be accuracy of description of proposed development rather than the loss of car parking. I say this having regard to the prevailing standards both then and now which have not significantly changed in ratio. IF anything the maximum limit in the context of national policy seeking to reduce car dependency there is more stringent case to reduce parking. There is provision for the merits of the case in the application and in this regard, I note no objection by the engineer in the planning authority.

8.4.2. The proposal for 18 no. apartments as amended provides for 29 car park spaces which is one less than the 30 permitted/required in the parent permission. Table 12.6 Car Parking Requirements for New Developments (Maximum per sq.m.) in the current Cork County Development Plan requires 1.25 spaces per apartment which is the same rate applied to the permitted development under the previous plan. This provision of 29 space is still in excess of the requirements as was the previous provision. The 3 additional potential parallel spaces identified outside of the site boundary to the north of the appeal site further breach this. There were also noted in the previous scheme. I also note the conditions attached by the planning authority in respect of a mobility management plan which in conjunction with bicycle parking support a strategy for reducing car dependency. I consider the reduction of one space which I note is to provide space for disabled car parking is a positive aspect in the context of the current standards and do not consider it is reason to modify or refuse the proposed development. There is also an opportunity to require electric

charging points. Moreover, in view of the foregoing I do not consider the proposed alterations to parking arrangements as permitted to be unlikely to have any significant adverse traffic impact on the existing local road network to warrant a refusal of permission on grounds of traffic safety.

8.5. Procedural

- 8.5.1. As in the previous case concerns have been raised, with respect to the legal entitlement of ownership / legal rights and ambiguity over ownership of the road in addition to any securities held upon the estate. This matter was considered in detail by the planning authority and subject to a request further information. In clarification of further information it is confirmed that the site was purchased by Unique Fitout in 2016 and is an associated company of Doneen Property Development Ltd. within a group structure which subsequently acquired the site from Unique Fitout in 2020.
- 8.5.2. I am satisfied that for the purpose of the planning application the applicant has demonstrated sufficient legal interest. I would however point out that by reference to the provisions of Section 34 (13) of the Planning and Development Act that legal entitlement over lands is a civil matter and planning permission does not confer entitlement to development in the absence of sufficient legal interest and it is therefore not strictly a matter for consideration by An Bord Pleanála. This was I note raised as a concern by the Housing Division in the context an exemption period for Part V. The report states that in the absence of sufficient documentary evidence, permission should only be subject to the requirement of 20% housing provision in line with the provisions of Part V. I consider the Part V requirement can be addressed by the attachment of a condition.
- 8.5.3. A condition requiring a security/Bond can also address meeting the required standard for the purposes of taking in charge. While I note concerns about the slowness of the construction it would appear that the subject application seeks to address regulatory building control matters and so a grant of permission should facilitate completion of the scheme. Given the small scale of the development the phasing of the development is not an option. Completion of landscaping prior to occupancy of units would facilitate orderly management of the site. A Construction

Management Plan would also facilitate orderly development at construction stage. In this regard I would also comment that there is some overlap in the conditions attached by the planning authority, and I would recommend that in the event of permission that these are rationalised.

8.5.4. In conclusion I accept that the changes are largely driven by building control and fire safety changes while not compromising the overall standard of previously permitted development and the proposed amendment to the permitted scheme are reasonable and consistent with the proper planning and sustainable development of the area.

8.6. **Appropriate Assessment (AA)**

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

8.6.2. The planning authority carried out an AA screening report which concluded that there would be no risk of significant negative effects on any European Site as a result of the proposed development, either alone or in combination with other plans or projects. The inspector in the previous case (extant permission on subject site) also concluded that no appropriate assessment issue arose. As this relates to quite modest modifications to a permitted development in a serviced site I consider that 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 that 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.

9.0 **Recommendation**

I recommend that planning permission should be Granted subject to the following conditions.

Reasons and Considerations

Having regard to the land-use zoning of the site as a designated 'Existing Built up Area', planning history associated with the site and the existing pattern of development in the vicinity, it is considered that subject to compliance with the conditions set out below, the proposed development would not be injurious to visual amenities of the area or injure residential amenity of property in the vicinity and would be acceptable in terms of traffic safety and carparking. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars submitted on the 5th November 2021, 13th and 24th January 2022 and 11th March 2022, 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. Details of the materials, colours and textures of all the external finishes to the proposed apartments shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

3. 29 no. car parking spaces shall be provided within the site. The location and layout of these spaces shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: To ensure adequate off-street parking provision is available to serve the proposed development

4. Details of the following shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

(a) The new external bin store located to the northwest of the building shall be 10m from the proposed apartment building and shall be covered and secured by a fence/railing and hedge.

(b) A bike storage room in place of the internal bin store northeast of the proposed apartment building as shown in the layout Drawing number L699-011, submitted 13th Jan 2022 with the application

(c) Proposals for external covered visitor bike storage beside the building entrance.

Reason: In the interest of visual and residential amenity.

5. (a) Prior to commencement of development, the developer shall enter into water and/or waste water connection agreement(s) with Uisce Eireann.

(b) Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

(c) All foul sewage and soiled water shall be discharged to the public foul sewer.

(d) Only clean, uncontaminated storm water shall be discharged to the surface water drainage system.

Reason: In the interest of public health.

6. All necessary measures be taken by the contractor, including the provision of wheel wash facilities, to prevent the spillage or deposit of clay, rubble or other debris on adjoining roads during the course of the works.

Reason: To protect the amenities of the area.

7. Site development and building works shall be carried only out between the hours of 08.00 to 19.00 Mondays to Fridays inclusive, between 08.00 to 14.00 on Saturdays 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

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

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

9. At least 20 no. bicycle parking spaces shall be provided within the site. Details of the layout and marking demarcation of these spaces in accordance with condition 4 above shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: To ensure that adequate bicycle parking provision is available to serve the proposed development, in the interest of sustainable transportation.

10. The areas of public open space shown on the lodged plans shall be reserved for such use and shall be levelled, contoured, soiled, seeded, and landscaped in accordance with the detailed requirements of the planning authority. This work and the provision of the 100sq. m play area shall be completed before any of the dwelling units are made available for occupation and shall be maintained as public open space / recreational play area by the developer until taken in charge by the local authority.

Reason: In order to ensure the satisfactory development of the public open space areas, and their continued use for this purpose

11. Public lighting shall be provided in accordance with a scheme, which shall include lighting along pedestrian routes through open spaces and which shall comply with the Cork County Council's Public Lighting Manual and Product Specification 2021, 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 dwelling unit.

Reason: In the interests of amenity and public safety.

12. The site shall be landscaped in accordance with a comprehensive scheme of landscaping, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This scheme shall include the following:

(a) A plan to scale of not less than 1:500 showing –

(i) The species, variety, number, size and locations of all proposed trees and shrubs which shall comprise predominantly native species such as mountain ash, birch, willow, sycamore, pine, oak, hawthorn, holly, hazel, beech or alder, which shall not include prunus species,

(ii) Details of screen planting which shall not include cupressocyparis x leylandii

(iii) Details of roadside/street planting, which shall not include prunus species

(iv) Hard landscaping works, specifying surfacing materials, furniture play equipment and finished levels.

(b) Specifications for mounding, levelling, cultivation and other operations associated with plant and grass establishment

(c) A timescale for implementation

All planting shall be adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development or until the development is taken in charge by the local authority, whichever is the sooner, shall be replaced within the next

planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

Reason: In the interest of residential and visual amenity.

13. The internal road network serving the proposed development, including turning bays, junctions, parking areas, footpaths and kerbs shall comply with the requirements of the planning authority and in all respects with the standards set in out in the Design Manual for Urban Roads and Streets (DMURS). Details of the following shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

(a) Details of speed control measures.

(b) A method statement for managing the existing footpath bounding the development at the public road which shall remain open and kept in good condition. It is the onus of the developer to ensure that all members of the public can safely utilise the public footpath during daytime and night-time hours.

(c) Details for the maintenance by the developer for all roads, footpaths, open spaces, site boundaries and other services within the estate until taken in charge by Cork County Council and / or Uisce Eireann at its discretion.

(d) A photographic record showing an accurate condition of roads and footpaths which are being utilised as access for the construction of the development. Upon completion of the development, a second road condition survey shall be carried out at similar location points and submitted to the p.a. / area engineer.

Reason: In the interest of orderly development and public safety.

14. 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 and communal areas and facilities shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: To ensure the satisfactory completion and future maintenance of this development in the interest of residential amenity. .

15. Prior to the occupation of any of the residential units, 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 and walking 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.

16. All service cables associated with the proposed development such as electrical, telecommunications and communal television shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development.

Reason: In the interests of visual and residential amenity.

17. A minimum of 10% of all communal car parking spaces shall be provided with functioning EV charging stations/points and ducting shall be provided for all remaining car parking spaces facilitating the installation of EV charging points/stations at a later date. Where proposal relating to the installation of EV ducting and charging points/stations has not been submitted with the application such proposals shall be submitted to and agreed in writing with the planning authority prior to occupation of the development.

Reason: To provide for and /or future proof the development such as would facilitate the use of electric vehicles.

18. Prior to commencement of development, the applicant or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the provision of housing in

accordance with the requirements of section 94(4) and section 96(2) and (3) (Part V) of the Planning and Development Act 2000, as amended, unless an exemption certificate shall have been applied for and been granted under section 97 of the Act, as amended. Where such an agreement is not reached within eight weeks from the date of this order, the matter in dispute (other than a matter to which section 96(7) applies) may be referred by the planning authority or any other prospective party to the agreement to An Bord Pleanála for determination.

Reason: To comply with the requirements of Part V of the Planning and Development Act 2000, as amended, and of the housing strategy in the development plan of the area.

19. 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.

20. The developer shall pay the sum of € €36800.00 (thirty six thousand eight hundred euro) (updated at the time of payment in accordance with changes in the Wholesale Price Index – Building and Construction (Capital Goods), published by the Central Statistics Office), to the planning authority as a special contribution under section 48 (2)(c) of the Planning and Development Act 2000, in respect of works to be carried out for the provision of off-site recreation facilities in line with the adopted

Recreation and Amenity Policy. This contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate. The application of indexation required by this condition shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine.

Reason: It is considered reasonable that the developer should contribute towards the specific exceptional costs which are incurred by the planning authority which are not covered in the Development Contribution Scheme and which will benefit the proposed development.

21. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion and maintenance until taken in charge by the local authority of roads, footpaths, watermains, drains, public open space and other services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion or maintenance of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

Reason: To ensure the satisfactory completion and maintenance of the development until taken in charge.

Suzanne Kehely

Planning Inspector

September 2023