



An
Bord
Pleanála

Inspector's Report

ABP-318606-23

Addendum

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| Development | The change of use of the University of Limerick City Campus (former Dunnes Stores Shopping Centre) from Retail Use to Educational Use (University). Planning permission for louvre screen and ancillary works. |
| Location | University of Limerick, City Centre Campus (Former Dunnes Stores Shopping Centre), Sarsfield Street, Limerick V94 DW21. |
| Planning Authority | Limerick City and County Council. |
| Planning Authority Reg. Ref. | 2360358. |
| Applicant(s) | University of Limerick. |
| Type of Application | Permission. |
| Planning Authority Decision | Grant with conditions. |
| Type of Appeal | Third Party |
| Appellant(s) | 1. Jason Cronin. 2. Peter McDonogh. |
| Observer(s) | None. |
| Inspector | Daire McDevitt |

1.0 Introduction

This addendum report should be read in conjunction with my original report on file dated 29th April 2024.

Board Direction BD-017143-24 dated 01/08/2024 contains the Board's Direction in relation to this Addendum Report which reads as follows:

The submissions on this file and the Inspector's report were considered at a Board meeting held on 9/5/2024 at this meeting it was decided to issue a Section 132 and following that to circulate the response to all parties to the appeal in accordance with Section 131 of the Planning and Development Act (as amended).

At a Board meeting on the 25/07/2024 the Board decided to defer this case for consideration at a further Board meeting.

The Inspector is required to prepare an addendum report including an updated assessment, and recommendation, having regard; to the Section 132 notice issued by the Board to the applicant, and the applicant's response to same. The Inspector is advised no further submission were received on foot of a Section 131 notice.

Board Direction BD016272-24 dated 10/05/2024 noted:

The Board decided to defer consideration of this case and to issue a Section 132 notice to the applicant regarding the following: The applicant is requested to submit a Site Specific Flood Risk Assessment.

Response received 20/06/2024 and included a Site Specific Flood Risk Assessment.

I address this below.

2.0 Site Specific Flood Risk Assessment

Objective CAF O20 Flood Risk Assessments *It is an objective of the Council to require a Site-Specific Flood Risk Assessment (FRA) for all planning applications in Flood Zones A and B and consider all sources of flooding (for example coastal/tidal, fluvial, pluvial or groundwater), where deemed necessary. The detail of these Site-Specific FRAs (or commensurate assessments of flood risk for minor developments) will depend on the level of risk and scale of development. The FRA will be prepared taking into account the requirements laid out in the SFRA, and in particular in the Plan Making Justification Tests as appropriate to the particular development site. A detailed Site-Specific FRA should quantify the risks, the effects of selected mitigation and the management of any residual risks. The assessments shall consider and provide information on the implications of climate change with regard to flood risk in relevant locations.*

The site is located on lands identified as Flood Zone A. The lands are zoned city centre and identified for development as a city centre campus for UL in the current Development Plan which was the subject of SFRA and SEA. The planning authority raised no concerns in this regard. A SSFRA has been submitted following section 132 Notices.

The applicants submit that much of the area bordering the Shannon in Limerick city is considered at risk in some form from flooding and that the development is located on a site specifically designated for city centre campus development. It is submitted that the current proposal relates to a change of use of an existing building rather than the provision of a new building, that there is no increase in footprint of the building or alteration to existing floor levels. And the use of the building is for third level students (adults) and not a school. Therefore, in the applicant's view is considered acceptable at this location.

Development can be provided on lands subject to a certain level of flood risk where the proper planning and sustainable development of the area justified it, so the presence of flood risk would not always indicate that the physical condition of the land precludes the development of same. As stated above the lands are located in Flood Zone A, The Planning System and Flood Risk Management – Guidelines for Planning Authorities (2009) clearly set out that residential development on flood zone A is high probability of flooding and most types of development would be considered inappropriate for this zone and that development in this zone should be avoided and/or only considered in exceptional circumstances, such as in city and town centres, or in the case of essential infrastructure that cannot be located elsewhere, and where the Justification Test has been applied. Highly vulnerable development (including essential infrastructure) includes Schools. The application before the board is for Third level campus which is not defined in the Guidelines, I note student Halls are included in the highly vulnerable category, The existing use (retail) is considered ‘less vulnerable development’ A Development Management Justification Test is required which has been carried out. I note the applicant’s argument that the use of the building by third level students is not a vulnerable as they are all adults, I disagree.

The SSFRA submitted is be summarised as follows:

Site is located in Flood Zone A and included with the SSFRA is a Justification Test for highly vulnerable development.

A flood event was recorded near the appeal site in the 1990s.

Fluvial Flooding: The Shannon Catchment Flood Risk Assessment & Management Mapping (CFRAM) project indicates that the site is located outside of 0.1%AEP fluvial flood plain, therefore the site is not affected by standalone fluvial flooding event.

Tidal Flooding: Modelling as part of the Shannon CFRAM indicates that the northeastern and central portions of the site are located within an area identified as at risk from 0.1% AEP (1 in 1000 year) tidal flooding event. The site is protected by a defence wall along Honan's Quay along the riverside. This provides a defence up to 0.5% AEP (1 in 200 year) flood event. Therefore the development is at risk if this defence wall is breached, or a high flood event occurs.

The potential for tidal flooding to affect the site is mitigated by the following measures:

- Predictability of tidal events ensure mechanisms/measures can be put in motion to safeguard staff/students. Building would be closed in extreme weather events.
- In a rare event the Honan's Quay section flooding, an emergency route would be implemented to bring staff/students via Sarsfield Street (above flood level extents).
- Training to ensure staff/students aware of safety/evacuation protocols.

Pluvial flooding: Historical mapping does not indicate flood events in the area in recent years.

Groundwater flooding: The site is underlain with undifferentiated limestone, area is listed as a locally important aquifer which has bedrock which is moderately productive only in local zones. The groundwater vulnerability assessment of the site indicated that the vulnerability of groundwater in the area is moderate. No basement works proposed. The risk of groundwater flooding is considered negligible.

Justification Test.

A Justification Test (section 5 of the applicant's SSFRA) has been undertaken. This concluded that the subject site passes the Justification Test for Development Management (Box 5.1).

The site is zoned 'city centre' in the 2022 Development Plan where education/training facilities are 'generally permitted'. The site is identified as a Strategic site for redevelopment and include an objective relating to University Limerick (UL).

The proposal is for a change of use from retail to educational. No modifications to external hardstanding area proposed, No increase in the footprint of the building. No alteration to floor levels. Mitigation measures included to minimise risk to staff and students set out. The building is accessible on 2 levels (Liddy Street/Sarsfield Street). No student accommodation proposed. It is submitted that there will be no increase in flood risk elsewhere or to the development site. The only potential risk is tidal flooding which is submitted to be predictable and therefore measures can be implemented/activated to enable the safety of staff/students.

Measures to ensure residual risk to the development is managed to an acceptable level. The applicant in the SSFRA submit that the development is justified in accordance with the Limerick Development Plan 2022-2028 for the reasons set out therein and summarised above.

I have examined the submission made following the section 132 notice and I consider in this instance the proposal complies with the Development Management Justification Test, which is the appropriate test. I note that a recommendation to refuse permission on grounds relating to flood risk had not been made by the planning authority at application stage. Therefore, based on all of the information before me, including the guidance contained within the relevant Section 28 Guidelines, I am generally satisfied in relation to the matter of flood risk subject to appropriate conditions if a grant of permission was forthcoming.

3.0 Conclusion

Notwithstanding the submission of a SSFRA following a section 132 notice. I consider, as set out in my report dated 29th April 2024, that the while the proposed development broadly complies with Objective ULCC01 UL City Campus and while I consider that the proposed development does not deter from the provision of student accommodation, landmark tall building, public realm and green infrastructure which are submitted will form part of the overall future development of the site as set out under the UL Strategic Plan. Strictly speaking the proposed development does not comply with the provisions of Objective ULCC01 UL City Campus and therefore potentially issues pertaining to contravention of the current Development Plan may arise in the absence of this information. Therefore, the development should be refused permission on these grounds.

4.0 Recommendation

Having regard to the above and to the content of my original report dated 29th April 2024 I recommend that permission be refused for the reasons and considerations set out below.

5.0 Reasons and Considerations

1. The site is located within Limerick City Centre as defined in the Limerick Development Plan 2022-2028. The proposed development is located on lands subject to objective ULCC-01-UL City Campus which contains certain criteria to be complied have not been complied with, including: b) Deliver an education campus with considerable capacity for high quality student accommodation and ancillary uses, c) Develop a landmark tall building on this gateway site in accordance with the provisions of the Building Height Strategy, d) Ensure the highest quality design of the public realm and e) Ensure the provision of green infrastructure is a key component of the design and layout including connections to existing green infrastructure assets. That have not been complied with. Therefore, the development on said lands, would not be in accordance with local, regional or and national planning policy.

The Board considers that the proposed development would contravene objective ULCC-01-UL City Campus of the Limerick Development Plan 2022-2028. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

Dáire McDevitt
Inspectorate

2nd September 2024