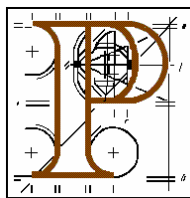


An Bord Pleanála



Inspector's Report

PL 28.237346

DEVELOPMENT: Demolish Market Tavern and Motors arms Public House and Construct mixed use office and bar/restaurant.

LOCATION: Lands bounded by Anglesea Street, Copley Street and Cotter Street, Cork.

PLANNING APPLICATION

Planning Authority: Cork City Council

Planning Authority Reg. No: TP09/34021

Applicant: South Link Construction Ltd

Application Type: Permission

Planning Authority Decision: Grant

APPEAL

Appellant: Ronan Traynor
An Taisce
South Link Construction Limited

Type of Appeal: First and Third Party

Observers: None

DATE OF SITE INSPECTION: 18 October 2010

INSPECTOR: Anne Marie O'Connor

1.0 SITE AND DEVELOPMENT DETAILS

Site Location and Description

- 1.1 The appeal site is located on the south eastern side of Cork City Centre. Anglesea Street runs on a north-south axis and is intersected at a staggered crossroads by Old Station Road to the east and Copley Street to the west. The site is located on the south western corner of the crossroads, at the junction of Anglesea Street and Copley Street. This is a mixed use area, characterised by both traditional 2 and 3 storey buildings and more modern 4 and 5 storey commercial and apartment buildings, including the Garda HQ on the northern section of Anglesea Street. The site has a stated area of 0.066ha and comprises the Market Tavern and Motor Arms public houses and their rear curtilages. The Market Tavern is an early-Victorian 3-storey building with extension to the rear and side. The Motor Arms is a mid-Victorian 2-storey building with outbuildings and extension to the rear. The Motor Arms ceased trading a number of years ago and is now vacant; the Market Tavern is still open.
- 1.2 The site fronts onto the junction of Anglesea Street, Old Station Road and Copley Street to the north. On one side (south east) lies a modern office building occupied by Anglo Irish Bank. This building is 5-storeys in height, with the top 2 storeys set back from the front elevation. The gable wall of the Market Tavern abuts the side elevation of this building. On the other side (north west) the site abuts Cotters Street, a narrow one-way street which runs northwards from South Terrace to Copley Street. Copley Hall, a 5-storey apartment building with commercial use at ground floor level fronting onto Cotters Street, bounds the site to the rear (south). A 5-storey (top floor set back) office building is located further west on Copley Street, on the far side of the junction with Cotters Street, with a 5-storey apartment building adjacent. The opposite (northern) side of Copley Street is characterised by vernacular 2 and 3 storey development.
- 1.3 The application form states that there has been flooding at ground floor level in 2005.

Description of Proposed Development

- 1.4 Planning permission is sought for the demolition of the Market Tavern and Motor Arms public houses. Both buildings are 2-storey in height with single storey elements.
- 1.5 It is proposed to construct a 5-6 storey mixed use office and bar/restaurant development (3,826 sq.m.) comprising:
- basement level – meeting room, personal fitness centre (109 sq.m), kitchen, ancillary function/ conference room (124 sq.m), and ancillary facilities);
 - ground floor – bar/ restaurant;
 - first to fifth floor – offices.

- 1.6 The eastern portion of the building is 5 storeys (19.6m) in height and corresponds to the height of the adjoining Anglo Irish bank building. The western portion is 6 storey (24m) in height. Roof gardens and a plant area are proposed at roof level. The building is set back from the rear southern boundary above ground floor level.

Further Information

- 1.7 The principal changes to the proposed development can be summarised as follows:

- Reduction in gross floor area of building by 179 sq.m. to 3,647 sq.m.
- Reduction in overall height of proposed building to 23.3mOD (parapet level 18.75m).
- Set backs of 2.5m at fifth and sixth floor level along the western elevation.
- Reduction in height of north eastern elevation to accord with existing ridge line of the adjoining Anglo Irish Bank building at 11 Anglesea Street.
- Redesign of roof top central lift and stair core.
- Recessed balconies and screening to rear elevations to replace the previously proposed protruding balconies.
- Rear building line redesigned by tapering it away from Copley Hall.
- A set down/ pick up area for deliveries adjacent to the building entrance.
- 20 no. cycle parking spaces adjacent to the ramp to the front of the building.

- 1.8 The following have also been submitted:

- Photomontages
- Shadow Study
- Architectural and Historic Assessment
- Flooding Report
- Camera survey of public sewers in the vicinity.

2.0 PLANNING AUTHORITY DECISION

- 2.1 The planning authority issued a notification of decision to **grant** planning permission on 20 July 2010. The following conditions are of note:

- Condition 2: Omission of Floor 5; set back 2.5m at Floor 4; rear building line to be set back to grid line 1; west elevation emergency stairwell windows to be opaque.
- Condition 3: Materials.

- Condition 4: Construction mitigation, waste management, and plant and equipment.
- Condition 5: Water supply.
- Condition 6: Gates and doors to open inwards and recessing of steps and ramps.
- Condition 7: Flood mitigation and drainage. Minimum FFL not less than 3.1mOD. Basement to be passively protected against flooding.
- Condition 8: S.48 Development Contribution.
- Condition 11: S.49 development Contribution (Cork Suburban Rail Project).

3.0 PLANNING APPLICATION

3.1 The application was submitted to the planning authority on 30 July 2009, with further information received 23 June 2010. Pre-application consultations had been held.

Planning Report

3.2 The report of the **Senior Executive Planner** can be summarised as follows:

- **Conservation & Demolition:** Case for demolition is a fine balance and requires careful justification which the applicant has attempted in their response to the Further Information.
- **Building Height:** Identified as a key issue in the context of Policy 13.34 of the CDP. Para 16.33 states that the City Centre typically has a general building height of 3-5 storeys. New development should respect the existing character and context of the area. Prevailing heights in the area 4-5 storey but reads as 3-4 storey given the set back of upper floors.
- Location of site at the corner of Copley Street and Cotter Street does not render it capable of accommodating as taller landmark building.
- Increase in height not justified on sound urban design or architectural grounds.
- Proposal not acceptable in terms of height. Desirable to omit 5th floor and set back 4th floor by 5m. In the interest of the residential amenity at Copley Hall, local urban grain, and architectural character of the area.
- **Residential Amenity:** further information response does not adequately address the concerns raised in respect of overbearing impact on apartments at Copley Hall, and overlooking from projecting balconies and rear elevation. Rear elevation should be angled away from the southern boundary to prevent overlooking. Set back to grid line 1 is recommended. Windows nearest Copley Hall on western

elevation (emergency stairwell) should be opaque given the proximity to the open balconies on Copley Hall.

- Issues in relation to the public realm, flood risk and services are addressed satisfactorily in the Further Information Response.
- **Protected Views:** no visual impact on protected view LT28.
- **Public Open Space:** Development Plan requires min 10% of site area for public open space. Full site coverage is proposed, although roof gardens are provided. Acceptable given the minimum area of the site.
- **Public realm:** proposal will result in cluttered and unsightly public realm. Access to building should be provided without encroachment onto the public pavement.
- **Use:** public house/ restaurant use established on site. However, the proposal includes an increase in floor area in proximity to residential units. Noise insulation and reduction measures should be submitted.
- **Grant** with conditions recommended.

3.4 Technical Reports

Planning Policy: FI requested in respect of justification for demolition, reduction in height of building, and visual impact assessment in respect of Protected View LT28.

Drainage: No objection subject to conditions.

Environmental Waste: No objection subject to conditions.

Water: No objection subject to conditions.

Traffic No objection subject to conditions.

Roads: F.I. requested in relation to construction outside of the red line boundary on part of public footpath/ road, details of interest in land, and public realm proposals.

3.5 Submissions

An Taisce Issues raised are covered in the grounds of appeal.

HSA Does not advise against granting planning permission in the context of Major Accident Hazards.

A *Third Party* submission was received from the appellant, Ronan Traynor. The issues raised are covered in the grounds of appeal

4.0 PLANNING HISTORY

T.P 08/32992 Demolition of Market Tavern and Motor Arms public houses and the construction of a 6-8 storey mixed use office and bar/restaurant development. **Refused** for 2 reasons:

1. Overdevelopment by reason of height, scale and design relative to the adjoining buildings and unique setting of the site;
2. Overbearing and overlooking impact due to height and scale of proposed development and proximity to residential development.

T.P 03/2790 First floor extension to rear of the Market Tavern. **Granted.**

T.P 03/27415 New shop front and windows to front, internal alterations and single storey extension to rear with fire escape at the Market Tavern. **Granted.**

5.0 PLANNING POLICY

Cork City Development Plan 2009

5.1 The site is zoned **ZO2 ‘Commercial Core Area’**, with an objective *“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 uses)”*.

5.2 The following policies are of relevance:

- **Policy 3.5** Prime Office Locations. Identifies the City Centre and Docklands as the primary locations for higher order general office development in the city region.
- **Policy 9.18** Seeks to encourage and facilitate the careful refurbishment of the historic built environment for sustainable and economically viable uses.
- **Policy 10.8** Protection of identified views and prospects: **LT 28** - View of St Luke’s Townscape from Summerhill South.
- **Policy 13.18** Control of location, size and activities in respect of public house and entertainment uses.
- **Policy 13.20** Development of pub or restaurant – protection of residential amenity.
- **Policy 13.34** City Centre Design Quality and Context.
- **Policy 16.1** High quality urban design.
- **Policy 16.2** Protection of the character and appearance of Cork’s areas of significant character, including the city centre.

- 5.3 Paragraphs 17.83 and 17.84 set out development plan standards for office development. Paragraph 17.84 states that demolition of existing buildings within the City Centre will not be permitted unless fully justified by structural assessment and positive redevelopment proposals.
- 5.4 Para 16.34 outlines appropriate circumstances for new corner (local landmark) buildings.
- 5.5 A copy of the aforementioned development plan policy is appended.

6.0 GROUNDS OF APPEAL

Third Party Appeal

- 6.1 Two third party appeals are submitted by:
- An Taisce, and
 - Ronan Traynor, the owner of 2 no. apartments (Nos. 2 and 12) at Copley Hall.
- 6.2 The **An Taisce** appeal can be summarised as follows:
- **Flooding risk as a reason for demolition:** Flooding is a historic and recurring problem in Cork City Centre generally, and particularly in areas on the harbour (eastern) side of the city centre where the buildings are situated. In these circumstances the incidences of flooding should not be considered as a criterion for demolition where buildings are usable and commercially viable. The solution to flooding in the city centre is to put wider flood protection measures in place for the whole city, which is an on-going priority of the City Council.
 - **Unsuitability of adaptation for modern office use:** Buildings in themselves should not be assessed for demolition on the basis of whether they meet modern criteria for office or other use. It is not fair to assess retention value of older buildings in terms of building regulations which relate to new office build. The fact that all floors of the Market Tavern were in use until recently demonstrates that such buildings have a viable current use.
 - Many successful businesses across the city are carried on in older buildings, some of which date from earlier periods than the subject buildings.
 - There is no shortage of new high specification office space in the wider area.
 - **Demolition in order to rectify the unsuitable appearance of more recent developments to the rear:** This is not a sufficient basis for demolition of two good buildings. The older buildings are equally as prominent as the new buildings when viewed from the junction. The buildings present a pleasing appearance at street level, which is an important approach to the city from the new link road to the east. They are of similar scale to other buildings in the wider area of the junction.

The buildings are typical of buildings built in what was then the outskirts of the city.

- **Protected Status:** the buildings are not protected structures, nor are they listed in the NIAH survey, which has not yet been extended to this area. A future extension of the NIAH may enable these buildings to be considered for an appropriate listing. The CDP states that (para 9.5) the planning authority are making additions to the RPS reflecting official recommendations where considered appropriate and as resources permit.
- **Precedent:** Recent decisions of ABP (28.235259, and 28.235946) noted the significant heritage of 18th and 19th century buildings in Cork and their contribution to the character of the centre of the city.

6.3 The **Traynor** appeal can be summarised as follows:

- Insufficient time given by planning authority to make submissions on FI submission.
- The 2 apartments are located at the rear of Copley Hall and are currently overshadowed by the Anglo Irish Bank building located at a distance of 9.5m. Copley Hall was not built when planning permission was granted for that development.
- Proposed development would completely block any light presently coming into the apartments from the gap to the east.
- Development would set a precedent for the height of future developments on land at the other end of the courtyard.
- Noise disturbance from sound of barrels being rolled between the bar and store room at late hours.

Applicant's Response to Third Party Appeals

6.4 The applicant's agent, Cunnane Stratton Reynolds, has responded to the third party grounds of appeal as follows:

An Taisce Appeal

- An Taisce did not make an observation on the further information submitted by the applicant which included the conservation report.
- There are no streetscape conservation objectives in the CDP that pertain to the site.
- The persistent flooding of the premises is a real issue and forms part of the rationale for demolition, not the base justification for demolition. Not aware of any flood protection measures being undertaken by the City Council which will reduce the flood levels in the area.
- The configuration of the existing buildings are not suitable for modern office layout requirements and the existing arrangement does not represent an efficient use of land within the city centre. The first floor of the Market Tavern is accessible by stair case only and has a number of steps internally. The upper floors of both buildings are not suitable

for office or even residential uses. Any alterations to the layout would have to comply with Part M of the building regulations which would seriously impact on the structures.

- The proposed office development will bring workers back into the city where there is adequate public transport.
- The gable ends of both the Bank Building and Copley Hall are intrusive and were never intended to be the final design solution for this corner. The proposed development, by infilling this underutilised site, will create a sense of arrival into the city by proposing a focal landmark at the important city junction.
- The buildings are not included on the NIAH survey of Cork City which represents an in-depth study of all appropriate buildings in the City Centre.
- Neither the planning department, nor the conservation officer, have any difficulty with the removal of the buildings.

Traynor Appeal

- A report prepared by Dermot O’Connell in relation to daylight is submitted. It is concluded that given the city centre location and the use of the relevant rooms in Copley Hall as bedrooms, the level of daylight access is within the range where local authorities could grant permission.
- The Traynor appeal does not recognise that the height of the proposed development has no bearing on the level of light entering the apartments.
- The apartments at Copley Hall will not be affected due to the open character of the area to the rear of Copley Hall and its exposure to the south.
- Noise levels will be reduced as the proposed building will be built in accordance with the latest building standards for noise insulation.

Further Responses to Third Party Appeal

6.5 The **An Taisce** response to the applicant’s submission makes the following additional points:

- An Taisce did not comment at the FI stage due to resource constraints as a voluntary organisation.
- The streetscape conservation objectives in the CDP should be applicable in areas outside of ACAs with a stock of vernacular buildings.
- The buildings form part of the fabric of the city centre area and should be considered under relevant CDP policies regarding the older built environment in the city.
- The conservation report does not stand up objectively as justification for the demolition of the existing buildings.

- If the bank building and Copley Hall were intended to be earlier phases of a larger development, this should have formed part of a composite outline planning application so the merits of the overall development could have been considered by the planning authority. This is not a justification to demolish the older buildings on the site.
- The NIAH is an on-going process which seeks to include buildings of merit but non-inclusion does not necessarily mean that a building would not be included at a later date. It is understood that the NIAH will be extended to cover the South City area which contains a number of buildings of merit.
- The lack of protected status of the buildings is not a justification for their demolition having regard to the other policies in the CDP relevant to older buildings.
- There have been cases where a structure without a RPS designation was considered to merit being retained where it had a NIAH designation (e.g. Winthrop Street Arcade PL218.235328).

6.6 The appellant, Ronan **Traynor**, has responded as follows:

- The applicant's report in relation to daylight (prepared by Dermot O'Connell) is based on the incorrect assumption that all the rooms on the relevant face of Copley Hall are bedrooms and do not require the minimum VSC of 27% required for living rooms. Both living rooms and bedrooms are located on the rear elevation (the units are single aspect). This error undermines the reliability of the assessment, and the report is considered to be flawed. VSC after the development will be only 5% or closer to zero.
- In relation to the lack of objection by other owners/ landlords of apartments in Copley Hall, many of the apartments at Copley Hall are not affected by the proposed development as they face the street. More are located a little further away compared to the appellant's apartments. Absentee landlords may also not be aware of the planning application.

First Party Appeal

6.7 The applicant's agent, Cunnane Stratton Reynolds, has lodged a first party appeal against Condition Nos. 2 and 6 of the planning authority's decision. The grounds of appeal are summarised as follows:

Condition No.2

- **Omission of Floor Five:** The site should be considered a focal site and as such an additional floor should be acceptable in principle according to the policies of the CDP (Section 16.34).
- Proposed 5th floor does not have an impact on the residential amenities of Copley Hall as demonstrated by the shadow study submitted.
- Omission of floor will negatively impact on the architectural integrity of the building and provide for a horizontal emphasis.

- Variations in building height will provide an element of diversity in the building line along Anglesea Street where the prevailing building height will rise to meet the prominent corner focal point.
- Proposed development contains a demarcation at 5th floor level along the western elevation to respect the set back on the 5th floor of no. 9-10 Copley St.
- Current proposal represents a significant reduction in the overall height form that proposed under planning ref. 08/32992.
- There is no uniform prevailing height that can be identified as characteristic of the area.
- The move towards higher buildings has been reaffirmed by the Board in their approval of a residential scheme at Water Street further east along the quays (28.212202), the government buildings at Sullivan's Quay, and a 7 storey office block on Deane Street (28.221285).
- Opportunity to create a fitting impression as a gateway to the city from the southern environs.
- Site provides an important public node by the presence of 2 public houses. This would be maintained and enhanced by the proposal.
- Visual envelope of the site is limited to short and medium range views.
- Proposed development does not impinge on Protected View LT28.
- **Set back 2.5m at Floor Four:** This will require the stairwell to be pushed back into the building and further erodes valuable letting floorspace within the building. It will have no benefit to the residential amenities of Copley Hall.
- **Rear building line:** Building line does not create an excessive shadow over Copley Hall. Issue of overlooking resolved by recessing balconies at FI. Rear building line also tapered above ground level at FI to reduce overbearing. The condition requires setting back the entire building line, including the ground floor. This would have a significant impact and would seriously reduce the floor area of the bar. This is not warranted, particularly as there is an existing flat roofed structure on the site which protrudes out as far as the building line.

Condition No.6

- It is understood, following consultations with the City Council that it was not the intention of the condition to omit the ramp and steps but more to do with the doors opening out onto the ramp and steps. In the interests of clarity the Board is requested to amend the condition so that it cannot be construed that the steps and ramps must be internalised.

Planning Authority Response to Grounds of Appeal

- 6.8 The planning authority has responded to the grounds of appeal as follows:
- Planning authority has serious concern about the height and massing of the proposed development and has adopted a consistent approach in its assessment of this proposal and other applications.
 - Selective interpretation and re-applying policies in the CDP is not a justification for unsubstantiated building heights.
 - While some higher element is possible in this location, in its current form and design it is not acceptable.
 - To permit the unmodified proposal would create an unfortunate negative precedent which would have a serious detrimental impact on the Cork townscape.
 - The proposed scale and massing is inappropriate at this location and comparisons with other decisions is misleading.
 - Policy 16.2 of the CDP recognises the special character of the cityscapes of the core areas.
 - The proposed development is counter to the character of the skyline in the area in terms of scale, massing and height.
 - Without the modifications under Condition 2, the height and massing proposed would be visually obtrusive and have an overbearing negative impact on Copley Hall, setting a less than desirable precedent for other developments of a similar nature.

7.0 ASSESSMENT

- 7.1 I have examined the file and planning history, considered the prevailing local and national policies, inspected the site and assessed the proposal and all of the submissions. The following assessment covers the points made in both the first and third party appeal submissions, and also encapsulates my *de novo* consideration of the application.
- 7.2 The appeal site is zoned **ZO2 ‘Commercial Core Area’** in the Cork City Development Plan 2009. Policy 3.5 of the CDP identifies the City Centre as a primary location for higher order office development. I have, therefore, no objection in principle to an office development on the appeal site. In relation to the bar/ restaurant and ancillary uses, I note that all uses are permitted throughout the Commercial Core Area, except comparison retail uses. Given this zoning objective, the existing pub use on the site and the location of the site in the city centre, I likewise consider these uses acceptable in principle subject to normal planning criteria.
- 7.3 I consider, therefore, that the key issues in this case are as follows:
1. Impact on Built Heritage and Streetscape
 2. Residential Amenity
 3. First Party Appeal – Condition 6

4. Other Matters

Impact on Built Heritage and Streetscape

- 7.4 The proposed development requires the demolition of the two existing Victorian public houses on the appeal site, the Market Tavern and the Motor Arms. Neither building is a protected structure, and the site is located adjacent to, but outside of, the 'South Parish Architectural Conservation Area'. The site is, however, located in a prominent location on one of the approaches to the city from the south. Policy 9.18 of the CDP encourages the careful refurbishment of the historic built environment for sustainable and economically viable uses and paragraph 17.84 states that demolition of existing buildings within the City centre will not be permitted unless fully justified by structural assessment and positive redevelopment proposals within the context of specified objectives, including high quality design and effect on the amenities of the surrounding area. Policy 13.34 also states that planning permission will not be granted for poor quality or inappropriate design or for proposals that would be damaging to the character or appearance of the area around it.
- 7.5 The applicant has put forward a rationale for the demolition of the existing buildings on a number of grounds. It is argued that the existing finished floor level of the existing building, 2.1mOD, is significantly below the flood levels experienced in the area in recent times. In order to mitigate against flooding it is necessary to raise the floor/ entrance level of the existing building which would in itself either lead to a significant material alteration to the front façade of the building by creating a ramp and stair access or alternatively leading to a floor to ceiling height far below building regulations standards and unacceptable to a future tenant. The flood mitigation measures could not practically take place without the demolition of the existing buildings and the redevelopment of the entire site. It is also argued that the buildings are unsuitable for modern office use and do not represent an efficient use of land in the city centre. The An Taisce grounds of appeal consider that flooding is a historic and recurrent issue in this part of the city centre and flood risk is not justification for the demolition of the existing buildings on the site. I am in agreement that the solution to flooding in the city cannot be the demolition and rebuilding of existing building stock and I agree that this does not represent a reasonable justification for the demolition of buildings that would otherwise be worthy of retention. Likewise in terms of the suitability of the buildings for modern office use, the characteristics of the building referenced by the applicant such as accessibility of the first floor by stair case only and internal steps are common features of older buildings and do not, per se, justify the demolition of such buildings.
- 7.6 The An Taisce appeal argues that the buildings are fine examples of vernacular Victorian architecture and are worthy of preservation. I am, however, mindful that the buildings are not protected structures, have not been included in the NIAH for the city, and are not located in an architectural conservation area. Unfortunately the visual context of the buildings has also

been substantively altered by the modern developments in the vicinity which are of a significantly larger scale, to the extent that the subject buildings now appear isolated in the streetscape. In terms of Policy 9.18 and paragraph 17.84 of the development plan, however, I note that no structural assessment of the buildings has been submitted and there is no indication that the buildings are not structurally sound. I also note that the development plan specifies the requirement for high quality design that protects but also enhances the architectural character of the city as a justification for the demolition of existing buildings within the city centre. Whilst there may be an argument in favour of a replacement development which fulfils this objective, I have serious concerns regarding the height, bulk and mass of the current proposal.

- 7.7 The development as proposed is 5 storey in height with an additional 6th storey on the eastern side of the Anglesea Street frontage. The 4th and 5th floors are set back in a staggered fashion from the Cotter's Street frontage. The design attempts to break up the mass of the Anglesea Street elevation by using changes in the treatment of the elevation to add vertical emphasis. The result, however, lacks a clear design coherence and retains an over-dominant appearance. In relation to the remaining elevations, both the side of the building facing Copley Street (north western elevation) and the 2-storey of the rear (south western) elevation above the adjacent apartment building at Copley Hall have significant expanses of blank brick walls and a bulky appearance. Furthermore, the proposed building is effectively 2 storeys higher than the modern buildings to the west at Copley Hall and the adjacent office building on Copley Street, and is located in a wider area that includes significantly smaller scale development.
- 7.8 Condition 2 of the planning authority's decision requires the omission of the fifth floor and to set back the fourth floor by a further 2.5m in order to reduce the height and massing of the building which is considered excessive. The first party has appealed this condition arguing that the fifth floor is justified by virtue of the location of the site on a prominent corner. In this respect I note that Para 16.34 of the development plan does make provision for new corner (local landmark) buildings in appropriate locations by means of additional building height of 1-2 storeys, subject to other planning considerations. Although the site is located on the corner of Anglesea Street and Cotters Street, the latter is a minor one-lane laneway and is significantly less important in terms of street hierarchy. The corner location is not, therefore, of sufficient streetscape importance to merit a local landmark building. The applicant also argues that the proposal offers an opportunity to provide a gateway to the city from the southern city environs. I would suggest, however, that this role is performed adequately by the Elysian Tower, which is clearly visual along this approach to the city centre. I do, however, agree with the first party that the simple omission of the 5th floor would result in an excessively horizontal emphasis to the building.
- 7.9 Whilst the amendments included in Condition 2 do address the excessive height of the proposal, I remain concerned regarding the overall bulk and massing of the proposal, particularly in respect of the Copley Street/ Cotters Street frontage. I have also considered alternative means of reducing the

height and bulk of the building by condition. On balance, however, I do not consider that the proposed development is of a sufficient quality to justify the demolition of existing historic buildings in the context of the development plan policy, and any amendments to reduce the height and bulk of the building would require significant changes which would be best dealt with by means of a fresh planning application.

- 7.10 In terms of the impact on the Protected View LT 28, I am satisfied that the proposed development would not result in any significant impact on the view of the St Luke's Townscape from Summerhill South.

Residential Amenity

- 7.11 The apartment building Copley Hall lies immediately adjacent to the appeal site to the south. I note the comments of the planning officer that many of these apartments are single aspect. There are windows serving bedrooms and living areas on the first, second, third and fourth floors along the entire rear elevation, along with a number of 'Juliet style' balconies. The western part of the rear boundary line of the site projects into the car parking courtyard to the rear of the apartment building by c.4.5m. As a consequence, four windows in the north eastern corner of the building directly abut the appeal site. These windows are at first, second, third and fourth floor level and it is proposed, therefore, to set back the rear elevation of the proposed building by some 3m above ground floor level. Condition 2 of the planning authority's decision requires a further set back of c.1.5m in line with the flank wall of the apartment building (corresponding to Grid Line 1).
- 7.12 The proximity of the appeal site to the existing apartments in Copley Hall means that any significant redevelopment of the site has the potential to seriously damage the amenity of the occupants of the northern most apartments in the rear of the building. I note the concerns of the appellant, Ronan Traynor, in this regard. I consider that there is considerable merit in the planning authority's requirement to set back the rear elevation of the building to Grid Line 1 above ground level to reduce the impact of the proposal in terms of visual outlook. The omission of the fifth floor is also significant in this respect. I accept the applicant's argument that this is not necessary at ground floor level as there are no residential units on this floor. In terms of overshadowing, the orientation of the proposed building to the north of the courtyard, and the existing overshadowing from the Anglo Irish Bank Building to the east, means that the proposed development would not be significant in this respect. The access to daylight for the apartments closest to the proposed development, including the appellant's units Nos. 2 and 12, will be affected by the proposed development. The report submitted by the applicant in response to the appeal (prepared by Dermot O'Connell) states that the Vertical Sky Component (VSC) for the first floor window closest to the appeal site would be reduced from 20% to 15%, which is below the min 27% recommended for living rooms under the BR standard. The closest window to the proposed development, does not, however, serve a living room and I consider that a reduction in the height of the building and setting back the rear

elevation slightly will mitigate the impact to a certain degree. Given the location of the site a dense part of the city centre, I do not consider that a refusal of planning permission would be reasonable on these grounds.

- 7.13 I note that the proposed balconies are recessed and have opaque glazed panels to prevent overlooking of Copley Hall and its courtyard.

First Party Appeal – Condition 6

- 7.14 Condition 6 of the planning authority’s decision states that gates/ doors shall be recessed and/ or incapable of opening outwards, and that steps and ramps shall be recessed or contained within the curtilage of the proposed development in order not to impede or obstruct the public road. The submitted plans show the ramp and steps to the building are located in the public footpath, outside of the red line boundary, and the doors to the building open outwards. The applicant has appealed the terms of Condition 6, specifically the restriction on the location of the ramps and steps. It is stated that discussions have been held with the planning authority and that it was not the intention of the condition to omit the ramp and steps but more to do with the doors opening out onto the ramp and steps. The planning authority has not responded to this issue.
- 7.15 I have no objection to the proposed accesses arrangements which are similar to the adjacent Anglo Irish bank building. I consider that this issue could be resolved by means of an amended condition.

Other Matters

- 7.16 Although no car parking is providing on site, there are adjacent multi-storey car parks in Copley Street and Eglington Street. This is acceptable in a city centre location and I have no objection to the proposed development in this respect. 20. no. cycle parking spaces are provided in accordance with the development plan.

8.0 RECOMMENDATION

Having regard to the above, I recommend that permission for the proposed development be refused for the reasons and considerations set down below.

REASONS AND CONSIDERATIONS

It is an objective of the current development plan that the demolition of existing buildings within the city centre will not be permitted without positive redevelopment proposals, and that planning permission will not be granted for poor quality or inappropriate design or for proposals that would be damaging to the character or appearance of the area around it. Having regard to the

prominent location of the site, and the height, bulk and mass of the proposed building, it is considered that the proposed development would be visually obtrusive to the detriment of the visual amenity of the streetscape, and does not justify the demolition of the existing historic buildings on the site. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

Anne Marie O'Connor
Senior Planning Inspector

26/11/2010