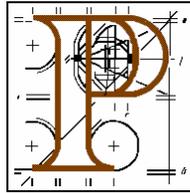


# An Bord Pleanála



## Inspector's Report

<b>Appeal Ref. No:</b>	<b>PL28.240487</b>
<b>Proposed Development:</b>	<b>Event/Convention Centre</b>
<b>Location:</b>	<b>Albert Quay East, Cork City</b>
<b>Applicants:</b>	<b>Crimson Investments Ltd</b>
<b>Planning Authority Reg. Ref:</b>	<b>11/34944</b>
<b>Planning Authority:</b>	<b>Cork City Council</b>
<b>P.A. Decision:</b>	<b>Grant with Conditions</b>
<b>Appeal Type:</b>	<b>Third Party vs. Grant Applicant vs. Conditions</b>
<b>Appellants:</b>	<b>(1) Norma Carey, Kenneth F. Carey, Carey Admin Ltd. (2) John O'Connor (3) Pamela Crowley</b>
<b>Observers:</b>	
<b>Date of Site Inspection:</b>	<b>17<sup>th</sup> August 2012</b>
<b>Inspector:</b>	<b>Hugh Mannion</b>

## **1. SITE AND SURROUNDINGS**

**1.1** The site comprises 0.67 hectares at Albert Quay East, Cork City. Albert Quay East runs along the south channel of the River Lee from Eamonn DeValera Bridge/Albert Road in the west to Victoria Road in the east. At the western end is a three storey public house – The Sextant – on the corner of Albert Road and Albert Quay East. Beside this is an open yard/access and single storey warehouse/retail building occupied by Carey Tool Hire. Beside this business and to its east is an access to the car parking area to the rear of Navigation House - a cut stone fronted three storey building. To the east of Navigation house is a further access to the car parking area at its rear and two mixed stone and brick gable fronted warehouses. The last building wholly fronting onto Albert Quay East is a modern warehouse building with redbrick/roller shutter front elevation. Navigation House once housed the forward planning office of the Cork City Council. On its river side (north side) Albert Quay East is a working dock.

**1.2** Turning the corner to Victoria Road from Albert Quay East is the two storey Idle Hour public house, then a three storey office building (1 Victoria Road) and then the three storey Port Bar public house (2 Victoria Road). Next to the Port Bar is a cut stone gabled fronted building which has upper floor windows facing the street but has a single storey interior in use as web design/e-business support unit. The sequence of buildings thereafter is the three storey Quayside Bar, a single storey a gymnasium, a single storey St Johns Ambulance Brigade Office and finally a part two storey/part three storey office building (Neptune House). Between this building and a roundabout is a six house residential terrace – Marina View. The southern boundary of the site abuts a single storey factory along Albert Road which was once a train terminus (Cork, Blackrock Passage 1850-1932).

**1.3** The wider area includes the Clarion Hotel, Harbour Office and Victorian warehousing to the north across the River Lee. On the corner of Albert Road and Albert Quay are single storey warehouses, to the south of these is the Elysian development and to the west along the river is County Hall.

## **2. PROPOSED DEVELOPMENT**

The proposed development comprises a multipurpose events/convention centre to allow for concerts, conferences, sporting and leisure events and trade shows comprising ground, first, second, third and fourth (plant and gantry) level areas allowing for performance areas, adaptable seating areas, public entrance, bars for sale of beers, wines and spirits, restaurant/food areas, merchandising areas, performers reception, performers changing areas, back of house facilities, stage, “green room”, administration offices, staff changing, crew rooms, service yard/area/access, ancillary services, increased site levels and finished floor areas, ancillary external works and alteration to existing roads to provide widened footpath (including lands on the southern side of Albert Quay East to commencement of Victoria Road) and plant areas all at a site at Navigation House and adjoining warehouse buildings at Albert Quay East Cork. The development has a gross floor area of about 8,425 sqm. Proposal includes the demolition of all on-site structures other than the inclusion of

the façade of the existing Navigation House façade and parts of the side walls. The site area is 0.67ha comprising Navigation House with a shed/store to rear, a double fronted warehouse building at 7 Albert Quay East and a brick faced warehouse building immediately west of the Idle Hour public house.

### **3. HISTORY**

Two permissions for office development on site under reference numbers have expired - TP00/24603 and TP00/24604 (see EIS 1.14 Site History).

Nearby significant applications include;

PL28.239622 (TP10/34546) 10 year permission for a mixed use development on 9.43 hectares, consisting of 886 residential units, offices, retail units, conference centre, parking and ancillary works. Appeal against financial contribution – currently with the Board.

PL28.235672 (T.P. 09/33900) permission granted for the redevelopment of the site immediately to the east on Albert Road/Albert Quay – currently in warehousing use six floors of office use (gross 8,065 square metres) over a ground floor/mezzanine of total retail use (gross 3,400 square metres) over two floors of basement parking for 107 cars. At second floor level a café (gross 658 square metres) with terrace is proposed with a public performance area over at third floor level. Demolition of all existing structures is proposed.

PL 28.234060 (T.P. 08.33238) demolish two grain silos, office building, laboratory building and erection of 2 no. mixed use blocks, formation of a new street and associated site works on an 1.55ha site on the opposite side of Victoria Road from the present site at Kennedy Quay, Victoria Road, Marina Walk.

PL28.213361 (T.P. 04/28877) granted permission for the 17 storey Elysian Building immediately to the southwest of the present site on Albert Street.

### **4. PLANNING AUTHORITY DECISION**

The planning authority decided to grant permission subject to 21 conditions.

The planning authority initially requested further information as follows;

- The applicant should submit revised plans to address the planning authority's view that a single access to one street (Albert Quay East) is unsafe and a second access to at least one other public road is required.
- The applicant should submit additional 'before' and 'after' views to aid a visual assessment.
- The applicant should submit a revised sunlight/daylight/overshadowing analysis.

- Revised northern elevation better relating the façade to adjoining buildings, replace the translucent frontage with opaque material, revise the ‘flank’ elevations visible from the public realm to better integrate these with existing adjoining buildings. A revised southern elevation, revised roof, a reduction in the footprint of the building to increase separation distances between it and adjoining buildings to the east, west and south.
- The applicant should submit a revised traffic and transport assessment for the proposed development.
- Revised road layout drawings for Albert Quay and a crowd dispersal model.
- Revised plans showing provision of 80 cycle parking spaces within the public realm.
- Passive floor protection measures for the lower ground floor to a minimum of 3.5mOD.
- Revised drawings to reflect any amendments following on the above.

### ***Internal Reports***

The **City Architect** commented that extending the cornice of Navigation House is a positive feature but could be enhanced by substituting a solid e.g. stainless steel for the proposed translucent material. The proposed roof is a positive element but could be improved for elevations other than the front. Improvement could be effected by providing an interaction with adjoining buildings and improvements to the portico.

The **Conservation Officer** sought further information showing the relationship between the proposal and the buildings on Victoria Road, revised river front elevation, retention of facades of gabled warehouses a revised roof emphasising its faceted architectural form and finish.

The **Planning Policy Section** commented that public safety and traffic management will need to be resolved. The revisions submitted by way of further information were reviewed but refusal was recommended on grounds of lack of alternative access.

The **Drainage Division** had no objection subject to conditions in relation to flood risk management.

**Traffic Engineering/Roads Design** recommended further information in relation to proposed modifications to the nearby street layout and a crowd dispersal model; a transport modal split analysis should be submitted along details of pedestrian routes.

The **Chief Fire Officer** made two reports. He commented following the receipt of further information that the applicant has demonstrated that the building can be evacuated in the event of a very large fire occurring on the street outside, that these are highly unlikely events and that while an alternative access would be an advantage there is no objection from a fire safety point of view.

The DOEHLG commented that if bats were discovered on site appropriate measures should be taken and that the advice of the City Archaeologist should be followed.

## **5. APPLICANT'S APPEAL**

The applicant appealed conditions 2(a)(b)(c), 4, 5, 8 and 16. The grounds of appeal may be summarised as follows.

### Condition 2(a)

This condition required that prior to commencement of development the developer shall submit a revised treatment for the northern elevation displaying a more faceted design to the curved elevation skin in order to break up the long and high façade and improve the scale of the façade in comparison with the adjoining buildings to the east and west which have narrower frontages in the interest of visual amenity.

### Condition 2 (b)

This condition required that prior to commencement of development the developer shall submit details of the proposed entrance portico along the northern elevation including materials and colours in the interest of visual amenity.

### Condition 2 (c)

This condition required that prior to commencement of development the developer shall submit drawings reflecting a revised treatment of the roof emphasising its faceted form and finish in order to break up the visual impact of the roofscape and improve its relationship with adjoining buildings in the interest of visual amenity.

*Grounds of Appeal:* Condition 2 is unnecessary, unreasonable and imprecise given the information provided to date. Where alterations are required to architectural elements they should be precisely specified. Condition 10 imposes the requirement to agree the finishes, materials textures and colours of the proposed development - this is sufficient.

### Condition 4

This condition required that prior to commencement of development the developer shall submit annually a general event safety management plan for all events in the interest of public safety.

*Grounds of appeal:* This requirement should not be required annually as it will interfere with an events schedule. The operation of the proposed development will be subject to Health and Safety and Liquor Licensing legislation and the DoEHLG Code of Practice for Safety at Indoor Concerts. The DoEHLG Development Management Guidelines recommend that where other codes apply that planning conditions should not try to regulate an aspect of a development.

Condition 5(a) and (b)

5(a) This condition required that events with attendances of more than 33% capacity should only occur on weekends or finish after 6.30pm Monday to Friday in the interest of public safety and minimise impacts on the local traffic network.

5(b) this condition required that prior to the first operation of the centre the developer submit a detailed event safety management plan where events would result in more than a 33% attendance in the interest of public safety and minimise impacts on the local road network.

*Grounds of appeal:* This requirement should not be required annually as it will interfere with an events schedule. The operation of the proposed development will be subject to Health and Safety and Liquor Licensing legislation and the DoEHLG Code of Practice for Safety at Indoor Concerts. The DoEHLG Development Management Guidelines recommend that where other codes apply that planning conditions should not try to regulate an aspect of a development. Similar developments such as the O2 or Grand Canal theatre were not subject to similar requirements.

Conditions 4 and 5 are anomalous in that they require annual event management plans and separate event management plans for events which finish after 6.30pm on a weekday. A condition similar to the one imposed by the Board in PL28.239383 – which required an emergency evacuation plan for events finishing before 6.30 on weekdays with audience above 33% capacity – is sufficient.

Condition 8

This condition required that the public lighting on Albert Quay and Albert Street adjacent to the permitted development shall be upgraded to modern standards at the applicant's expense in the interests of public safety.

*Grounds of appeal:* this condition should be removed because the payment is covered by condition 21. The development does not front onto Albert Quay but Albert Quay East. The planning authority has conditioned these public lighting improvements in separate 'live' permissions.

Condition 16 (a) (b) (c) (d) (e)

Condition 16 (a)

This condition required that the measures set out in the Flood Risk Assessment submitted to the planning authority on the 14<sup>th</sup> November 2011 be carried out.

*Grounds of appeal:* The applicant has no issue with this part.

Condition16 (b)

This condition required that the ground floor shall have a minimum level of 3.5m AOD.

Condition16 (c)

This condition required that the lower ground floor level be passively protected against flooding to a minimum of 3.5OD (Malin) with no reliance on human or mechanical measures.

Condition16 (d)

This condition required that flood resilience of the building shall be provided to a level of defence required for the Docklands of 4.7mOD or to an amended level which may arise from the final CFRAMS report and agreed with the planning authority.

Condition16 (e)

This condition required that a flood emergency plan be prepared for the proposed development.

*Grounds of appeal:* the ground floor level is determined by the requirement to tie in with the adjoining façade of Navigation House and the street level which allows for universal access. The ground floor is therefore designed to flood and be flood resilient. Therefore condition 16 (b) (c) and (d) should be amended accordingly.

## **6. THIRD PARTY APPEAL**

The grounds of appeal may be summarised as follows.

- The Idle Hour Bar is to the northeast of the proposed development and has four roof lights and a bathroom window at first floor level and two roof lights at ground floor. The proposed development will reduce light to these windows. The planning authority sought further information in relation to the sunlight/daylight impact on this property and the applicant's response was incorrect as it stated that there were no windows on the rear/southern boundary of the bar. The scale and height of the proposed development will significantly reduce the light to the appellant's property.
- All traffic from the proposed development will exit close to the Idle Hour Bar and negatively affect that property.

- The South Docks LAP envisages redevelopment for the area – the proposed development will significantly impact on the redevelopment potential of the Idle Hour Bar.
- The proposed curved façade of the proposed development is set back 15m from the front building line creating a panoramic view from the second floor of the proposed development. This may negatively impact on the development potential of the Carey Tool Hire site to the northwest by requiring redevelopment proposals to address this set back.
- The proposed development provides for a wraparound service route with a separation distance of 4.615m (increased from 4.22m by way of further information) at ground level but this narrows at upper levels to 3m because the proposed development is cantilevered over the service route to the west of the site. The proposed development could be moved further eastwards to mitigate this impact on the Carey Tool Hire site.
- The Port Bar on Victoria Road to the east of the proposed development and comprises a ground floor public house and residential accommodation above and will be negatively impacted upon by the proposed development. The artists' parking/loading areas are too close to the rear of the Port Bar. The proposal will give rise to late night activity and to overlooking, noise and disturbance will negatively impact on the amenity of the Port Bar. There is insufficient detail in relation to the proposed boundary treatment. The proposal will significantly reduce the amount of daylight and sunlight available and give rise to overshadowing the Port Bar.
- The proposal is out of scale with the block within which it is located and its bulk will dominate adjoining uses in a manner not anticipated by the South Docks LAP. The overall planning framework for the area (in both City Plan and LAP) envisaged a cultural building within the Odlums Mills building, the junction of Victoria Road and Kennedy Quay is the preferred location for a landmark building, this site is not flagged for a landmark building, Navigation House is a heritage building but is being proposed for demolition, the planned block structure, heights, open spaces and movement routes set out in the LAP are compromised by this proposal.

## **7. OBSERVATIONS**

There are no observers.

## **8. APPLICANT'S RESPONSE**

The applicant responded to the third party appeals as follows.

- The proposal does not compromise the overall objectives of the South Docks LAP in relation to the area. The third party is unable to give effect to the redevelopment opportunities indicated in the LAP and adjoining businesses

will benefit from the additional footfall generated by the proposed development. The proposal is for a commercial building not a cultural building as envisaged for the Odlums site. Nothing in the LAP prevents the provision of buildings of significant scale, mass and architectural quality. Navigation House has been subject to significant internal changes in the past and the proposal will conserve the most important elements of the remaining fabric.

- There has been a series of previously permitted developments on this site and in the wider area which have established the principle of higher buildings in the area including PL28.235672. The proposal is between 30.6m and 27m over ground – the Elysian tower is 80.7m high and is part of the largest development in the country to the southwest of the proposed site. The area to the rear of the Port Bar – itself a commercial premises – when last used was used as a car park. All existing site boundaries will be retained.
- The BRE Guidance is advisory and provides a tool of assessment only. The BRE Guidance is that if a proposed development results in a reduction of skylight to less than 80% of that previously enjoyed by a room that this will be noticeable. None of the rooms in the Port Bar will lose more than 80% of previously received skylight. Also the Port Bar is dual aspect. Sunlight will not be noticeably affected for the Port Bar building with the exception one room which already receives very low levels of sunlight. Given the location of the bar in a commercial area close to the docks no additional noise impact is predicted. No on site car parking is proposed so customers will walk or take public transport. The proposal balances the need for urban renewal with the need for protection of the area's built heritage.
- The Carey's Tool Hire/Sextant Bar site will not be affected by the proposed development since no architectural precedent is established by a single proposal nor does the proposal establish a right to a view which would compromise the development potential of that site. In relation to the proximity of the western boundary of the proposed development to the eastern boundary of the Carey's Tool Hire site the positioning of the building within the site was subject to careful consideration and cannot now be changed. The applicant would welcome a condition requiring the provision of opaque glazing on the western elevation to protect the amenity of the Carey's Tool Hire site. A construction management plan will ensure no adverse construction impact on adjoining property.
- The Idle Hour Bar is on the corner of Albert Quay East and Victoria Road to the east of the proposed development. The daylight/sunlight study which accompanied the application demonstrated that there will be no impact on this building. Vehicular exit from the proposed development will be in the track of an existing warehouse exit.

## 9. PLANNING AUTHORITY RESPONSE

The planning authority responded to the appeals as follows.

- *Applicants Appeal:*

Condition 2(a) - The applicant was asked by way of item 4(c) of the request for further information to make amendments to the façade. The applicant did not fully address the amendments sought by the planning authority which has resulted in this condition.

Condition 2(b) the applicant was requested to submit details of the portico under item 4(b) of the request for further information – these details to provide for an opaque and not a translucent material. The applicant's response was unclear on this point.

Condition (c) this condition seeks to break up the expanse of the proposed roof to minimise its visual impact and improve its relationship with adjoining buildings.

Condition 4 requires an annual event safety management plan because the site is adjacent to a national primary route and road safety concerns require such a plan for this location.

Condition 5 (a) and (b) requires an event management plan because the proposal has the capacity to generate 5,000/6,000 patrons converging on an extremely busy junction which requires a management strategy. This site is not comparable with the O2 site in Dublin or the Beamish and Crawford site in Cork.

Condition 8 referred to the provision of public lighting on Albert Quay and Albert Street. This condition is required by public safety concerns. The works must be carried out at the applicant's expense and he will be reimbursed if other planning permissions are implemented in the 7 year period.

Condition 16 referred to flood risk and the planning authority does not object to an amended condition referring to flood resilience of the lower ground floor.

- *Re: Pamela Crowley/Port Bar appeal.* There are no additional car parking spaces being proposed because of the proximity of public transport and nearby public car parks. Traffic management will continue to be subject to discussion between local residents, local businesses and the planning authority.
- *Re: Idle Hour Bar appeal.* The access/exit between the bar and the proposed development will serve equipment delivery vehicles which will be infrequent and have a minor effect on the bar. Item 3(b) of the further information request sought details of potential daylight/sunlight and shadow analysis report. The planning authority had regard to the commercial/brownfield nature of the site and to the commercial nature of most buildings which would be

impacted upon by the proposed development and concluded that - while there would be an impact - it will not be an unreasonable impact.

- In relation to noise and vibration the planning authority took the view that many of the premises in the area are public houses and that as a working port there is potential for noise impacts. The EIS set out that the design and construction of the building would mitigate noise impacts.
- There is no over-sailing or encroachment of the boundaries of adjoining properties by the proposed development.
- There are no protected structures on site or recorded monuments. The principal building of heritage value – Navigation House – had previously lost the internal structure and roof. The façade and flanking walls are the remaining items of heritage value which are being retained as part of the proposed development.

## **10. FURTHER SUBMISSIONS**

The third party (Pamela Crowley/Port Bar) responded to the other appeals as follows;

- The proposal will profoundly impact on nearby residences and businesses.
- The conditions 4 and 5 imposed by the planning authority and subject of a first party appeal should be imposed by the Board in the event of a grant of permission to allow the planning authority some control over the management of events in the proposed development.

The third party (Pamela Crowley/Port Bar) responded to the comments of the planning authority and applicant as follows;

- The applicant was requested by way of further information to provide a second access point to the proposed development but did not do so. Albert Quay is busy road and its closure would have a significant impact on the Port Bar.
- The application is detrimental to the heritage of the area. The building heights indicated in the LAP did not take account of the architectural heritage of the area. The proposal will result in a taller building in the midst of smaller structures.
- The daylight/sunlight study did not adequately address the overshadowing impact of the proposed development.
- The St. John's ambulance depot does not give rise to noise.
- The proposed boundary treatment is unclear.

- The development potential of nearby sites is undermined by the proposal.
- The present use of the site as a warehouse within which car parking takes place is not comparable with open storage/car parking as envisaged by the proposed development.

The third party (Idle Hour Bar) responded to the other appeals as follows;

- The upper floors of the Idle Hour bar are in residential use.
- The applicant did not consult with the landowner to assess the daylight/sunlight impact on the premises.
- There is little traffic exiting from the warehouse use on site at present whereas the proposed development will give rise to a significant increase in traffic.

## **11. PLANNING POLICY FRAMEWORK**

**The Planning System and Flood Risk Management Guidelines for Planning Authorities** (DoEHLG 2009) provides that planning authorities include a flood risk assessment of their administrative areas and integrate flood risk analysis into their plan making and development management functions.

The proposed site is located in an area zoned as Commercial Core Area (CCA) in the **Cork City Development Plan 2009-2015** with the 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)” and in relation to which the plan states that the Commercial Core Area reflects the commercial and employment zone of the City Centre extending from the City Centre Retail Area. All uses are permitted throughout the CCA, except comparison retail uses, which are restricted to the City Centre Retail Area unless they serve a local need only.

In relation to the development strategy for the docklands the City Development Plan comments (2.29) that the redevelopment of the North and South Docks as a major new mixed use quarter is the most significant sustainable development opportunity for the City Region. Together they have the capacity to deliver 25,000 people and 27,000 jobs in an attractive waterfront location which can be well served by public transport. Local Area Plans have been prepared and adopted for both areas which set out the framework for delivery of infrastructure and development to these areas. The delivery of Docklands development is critical to the city achieving its population and employment targets.

It is a policy of the planning authority to establish and maintain Architectural Conservation areas (ACA). There are 32 Architectural Conservation Areas Policy 9.24) below in the city of which Victoria Road is one.

It is a policy of the planning authority (10.8) to protect designated views and prospects. Proposals that would cause unacceptable harm to the visual impact of landmark buildings, historic buildings, key views and prospects will not be permitted. Cork City Council will have a presumption against development that threatens to obstruct or compromise the quality or setting of views and prospects of special amenity value including strategic linear views, panoramic views, rivers prospects, townscape and landscape views and approach road views. Volume 3 and the maps attached to the plan detail the views and prospects in the city designated for protection.

The site is within the **South Docks Local Area Plan** in designated Development Precinct 5 Victoria Road. In the LAP the entire block bounded by Albert Quay East, Albert Street, Albert Road and Victoria Road is zoned commercial core area as defined in the City Plan. Figure 5.4a indicates a distributor route/high quality public transport route along Victoria Road onto Albert Quay East along with a riverside pedestrian route. This figure also indicates a pedestrian permeability route through this site and the adjoining Carey Tool Hire out to Albert Street. Figure 5.4b indicates a fairly open development layout including trees within the proposed site while the Carey Tool Hire site, the warehouse just before the Idle Hour Bar and number 1 Victoria Road are shown as appropriate locations for buildings of 5 or 6 storeys with set-back floors. Focal and landmark buildings are indicated at a number of locations within the precinct – there are none on this site.

## **12. ASSESSMENT**

**12.01** The principle planning issues to be considered in the present application are;

- Development Plan Policy
- Urban Design
- Visual Impact/Views and Prospects
- Built Heritage Impacts
- Impact on adjoining property
- Flooding
- Public Safety
- Condition 8
- EIA
- AA

### **12.02 Development Plan Policy**

**12.03** The proposed site is located in an area zoned as Commercial Core Area (CCA) where a wide range of commercial, cultural, leisure and residential uses are acceptable. The proposed development comprises multipurpose events/convention centre to allow for concerts, conferences, sporting and leisure events, bars, restaurants and merchandising areas. These uses are compatible with the zoning objective for the area.

**12.04** The City Development Plan has been amended by a revised by the adoption of a Core Strategy in accordance with the requirements of the Planning and Development Act 2010. The Core Strategy significantly amends Chapter 2 of the City Development Plan and places further emphasis on the requirement to develop brownfield sites, the development of integrated transport strategies including the development of public transport, walking and cycling, population growth/residential development within identified areas (including North and South Docklands) to be facilitated by appropriately zoned lands. The site is identified as appropriate for regeneration in the South Docks Local Area Plan with uses appropriate to the commercial core area. The proposed development therefore accords with the strategy set out in the LAP.

### **12.05 Urban Design**

**12.06** In relation to urban design the City Development Plan sets out a number of principles (see table 16.1) which include an emphasis on connectivity, respect for context, promotion of spaces that are successful, have vitality, are safe and secure, attractive and accessible to all. The plan requires that individual buildings should demonstrate high standards of design and landscaping.

**12.07** The City Architect has no fundamental objection to the height of the proposal while the Forward Planning Section maintains that the proposal fails to respect the provisions of the City Plan and LAP.

**12.08** The applicant submitted photomontages of the proposed development as constructed. These indicate a significant visual impact on the river quay at this point but that this impact diminishes quickly as the viewer moves away. Accepting that photomontages are not always precise indicators of visual impact I consider that these reasonably approximate to reality were the proposed development to go ahead. There are two particular factors to consider when assessing the potential visual impacts of the proposed development – one is the existing city scape context and the second is the planned city scape context.

**12.09** Within the existing city scape context of the proposed development is the Clarion Hotel on Lapps Quay on the north side of the south channel of the River Lee with 6 floors and two set-back floors, beside this to the west is a Sherry Fitzgerald office building with 7 storeys and a floor setback. To the east of the Clarion Hotel on Custom House Street is the City Quarter Building another five storey office block with a set-back floor – which the applicant estimates has a maximum height of 29.1 m. The grain stores on the opposite side of Victoria Road are very substantial. The Elysian development just to the south west of the site has a tower height of 80.74m. These buildings are very substantial in height and scale so that their mass on the city quays and off it (the Elysian) provide the wider context for the currently proposed development and indicate a pattern of development in this area which is both spatially and design-wise separated from the finer grained, more human scale and lower buildings which dominate the core city to the west; say along South Mall, Oliver Plunkett Street, Washington Street or Patrick Street. It may be concluded therefore that development management practice in the area has been to accept that regeneration of the docks has provided opportunities for buildings of greater height and scale than would be acceptable in the commercial core of the city.

**12.10** In relation to building height the City Plan (Table 16.2) recommends a height for north facing elevation of 13/15m or 4 storeys. The LAP indicates 5 or 6 storeys with an additional set-back floor on sites adjoining the subject site and 6 or 7 floors with a set-back floor further to the east of this site along the river. The proposed development comprises a largely glass fronted façade to a height of 17m with an additional oval roof to a maximum height of 30.62m. I would take it that commercial development - particularly retail development - would have a floor to ceiling height of up to 5m providing for ducting and services. Applying this rule of thumb the LAP envisages up to 30m on this site and in excess of that (about 35m) on the next brownfield site (the flour mills) to the east on Victoria Road/Victoria Quay. I would advise therefore that both the existing cityscape in the area and the altered cityscape envisaged in the City Plan and the LAP support higher and larger scale buildings on this site.

**12.11** The planning authority has imposed condition 2 in relation to design issues and the integration of the building into its surroundings. Condition 2(c) may arise from the City Architect's comment that the proposal would benefit from extending the cornice of Navigation House along the front elevation in more a solid material (for example stainless steel) and not in the proposed glass. This appears to be a reasonable requirement in that it would make the internal building arrangements more legible to the outside viewer and provide for greater definition to the façade linking it to the Navigation House façade which is being retained. I recommend adding that condition in the event of a grant of permission.

**12.13** The applicant has also appealed condition 2(a) and (b). Condition 2(a) required that prior to commencement of development the developer shall submit a revised treatment for the northern elevation displaying a more faceted design to the curved elevation skin in order to break up the long and high façade and improve the scale of the façade with the adjoining buildings to the east and west which have narrower frontages in the interest of visual amenity. The proposed treatment of the river front façade is as set out in drawings P2001B (received as FI 14<sup>th</sup> November 2011). This illustrates a façade punctuated at intervals of about 9m by vertical elements which more or less reflect the grain established by the two façade elements of Navigation House. I do not accept the rationale for this condition set out by the planning authority that it would provide for a scale more in keeping with the urban grain to the west and east of the proposed building. The urban grain to the west offers no assistance on what would be acceptable because of the very wide façade of the Carey tool hire gable fronted building, followed by an open yard followed by the very much narrower Sextant public house. Coupled with this the LAP envisages the redevelopment of the Carey Tool Hire site at 5 or 6 storeys with an additional set back. In relation to the grain to the east of the site – the Idle Hour bar – the length of its façade is not dissimilar to the separate elements in the proposed building's façade. The applicant is on secure ground when he criticises this condition for failure to have regard to the Development Management Guidelines in that it is less than precise. I recommend omitting condition 2(a) in the event of a grant of planning permission.

**12.14** Condition 2(b) requires the developer to submit drawings reflecting a revised treatment of the roof emphasising its faceted form and finish in order to break up the visual impact of the roofscape and improve its relationship with adjoining buildings in

the interest of visual amenity. Both the requirement of this condition and the rationale for it appears to be flawed. This is a very large building whose immediate context is much smaller buildings largely of 19<sup>th</sup> century origin. The area is earmarked for redevelopment not least because the port activity which gave rise to the ancillary uses in the area, including warehousing, manufacturing and public houses, is moving to Ringaskiddy in Cork Harbour. It would be an impossible task and the result paradoxical to require a modern entertainment/cultural use to replicate the roof pattern of Victorian warehouses, domestic dwellings or public houses. The building is what it is and the proposed roof is reflective of the building's use and period. I recommend omitting condition 2(b) in the event of a grant of planning permission.

**12.15** The appeal has raised the issue of the possible impact of the proposed development on the development potential of adjoining sites through a requirement to maintain the views from the proposed building. While each application is dealt with on its own merits it may be noted that the LAP envisages redevelopment of adjoining areas at 4, 5 and 6 storeys. The proposed development will not impact on the development potential of these areas.

#### **12.16 Visual Impact/Views and Prospects**

**12.17** Cork City Council has a presumption against development that threatens to obstruct or compromise the quality or setting of views and prospects of special amenity value including strategic linear views, panoramic views, rivers prospects, townscape and landscape views and approach road views listed in the Plan and shown on the maps attached to the Plan. Proposals that would cause unacceptable harm to the visual impact of landmark buildings, historic buildings, key views and prospects will not be permitted (Policy 10.8). Maps 14 and 15 attached to the Plan illustrate the views and prospects in the City. I would identify the views which may be impacted upon by the proposed development as AR1 from Horgans Quay to St Finbarre's Cathedral, Holy Trinity and St Nicholas spire, RP1 from Eamonn DeValera Bridge to St Finbarre's Cathedral, and LT 26, 27 and 28 from St Luke's townscape to High St Bridge, Old Blackrock Road Bridge and Summerhill South respectively.

**12.18** Having regard;

- to the photomontages submitted with the initial application,
- to the visual impact assessment submitted in the EIS,
- to the additional photomontages submitted with the additional information,
- to the location of the proposed development in the lowest laying part of the city,
- to the relatively higher elevations of the more significant landmarks (St Finbarre's Cathedral, Holy Trinity and St Nicholas spire) which are the subject of the protected views and prospects,
- to the accumulation of relatively higher buildings in the immediate vicinity of the proposed development, and
- to the indicative heights for new buildings in the area provided for in the South Docks LAP,

I do not consider that the proposed development would interfere with views or prospects of special amenity value which it is necessary to preserve in a manner which would contravene materially an objective set out in the City Development Plan.

### **12.19 Built Heritage Impacts**

**12.20** The EIS (14.12) identifies four buildings on site; Navigation House, a 19<sup>th</sup> century warehouse, a mainly 20<sup>th</sup> century warehouse and a late 20<sup>th</sup> century store. Navigation House is, in heritage terms, the most important of these buildings having been rated as of regional importance in the National Inventory of Architectural Heritage (NIAH) but it is not a protected structure. What remains of the original façade and side walls has been incorporated into the proposed development giving rise to a somewhat unbalanced river front façade. The double gabled warehouse to the east (building B in figure 15.12 of the EIS) is also given regional significance in the NIAH but is not a protected structure and is proposed for demolition. The applicant argues that this building should be more properly classified as of local importance. I agree with this assessment and note that the planning authority have not sought to retain this building. The other two buildings C and D in figure 15.12 of the EIS are of no heritage significance. I conclude that the proposed development will not adversely impact on the built heritage value of the site.

**12.21** It is the policy of Cork City Council (Development Plan Policy 9.3) to protect the rich archaeological heritage of the city. The EIS (chapter 14) states that there are no recorded archaeological monuments impacted upon by the proposed development. I note that the site is outside the zone of archaeological interest set out in figure 9.1 of the City Development Plan and having regard in particular to the site having been undeveloped marshland until the 19<sup>th</sup> century I consider that it is unlikely to hold significant archaeological remains.

**12.22** It is a policy of the planning authority to establish and maintain Architectural Conservation Areas (ACA) and the City Development includes Victoria Road as an ACA. That part of Victoria Road designated an ACA is located to the south east of the Victoria Road Roundabout and is not impacted upon by the proposed development. A small element of the ACA – Park View (12 houses) - northeast of the roundabout and opposite Marina View is closer to the proposed site. The roof of the proposed development will be visible from the front gardens/upper floors of some of these houses but I consider that there will not have a materially negative effect on this element of the architectural conservation area.

### **12.23 Impacts on Adjoining Property**

**12.24** The appeals make the point that the proposed development will reduce light to the rear windows and roof lights of the Idle Hour Bar and the Port Bar. The EIS appendix 11 applies the methodology of the BRE Site Layout Planning for Daylight and Sunlight a Guide to Good Practice and the BS 8206-2008 Lighting for Buildings Part 2 Code of Practice. The EIS deals specifically with the Port Bar. There are four windows at first and second floor level which currently have a very high vertical sky component i.e. they receive very high levels of direct skylight. The study finds that

skylight to these windows will be significantly reduced but that it will remain within the acceptable range provided for in the BRE Guidance. In terms of daylight the effect will be similar resulting in significant reductions for currently pertaining very high levels but the rooms served by the windows will retain daylight levels within the rooms compatible with the recommended standards set out in the BRE Guidance. Sunlight will also be reduced but again remain within recommended levels except a first floor window which will fall marginally below the winter sunshine guideline level.

**12.25** The planning authority sought further information in relation to the sunlight/daylight impact on the Idle Hour Bar and other adjoining properties to the east. The applicant replied (see additional sunlight/daylight report submitted on the 14<sup>th</sup> November 2011 I the revised EIS Folder) that there were no windows on the rear elevation of the Idle Hour Bar, the BRE standard refers only to windows on a vertical plane and that the roof lights in the Idle Hour bar serve a keg storage area. The planning authority's advice (see page 6/12 of planner's report (Further information)) was that the proposal would not unreasonably impact on these properties.

**12.26** The appeals are concerned that the proposed development will seriously negatively impact on the Idle Hour Bar and the Port Bar through loss of light/overshadowing.

**12.27** The Idle Hour Bar is a two storey structure with a ground floor single story hallway/keg store with a door on its Victoria Road frontage. There are two roof lights to this hallway/keg store. To the rear of the building is a boiler room with two roof lights, on the turn of the staircase there is a further roof light and on the first floor landing there is a further roof light. The bar occupies the ground floor while there is unoccupied residential accommodation at first floor level. Having regard to my site inspection and to the shadow analysis submitted by way of further information it may be anticipated that there will be some loss of light to the roof lights in the keg store and boiler room but that the loss of diffuse daylight to those on the turn of the staircase and first floor landing will be minimal.

**12.28** The appeal states that the upper floors of the Port Bar are occupied as residential accommodation. The shadow analysis submitted with the further information confirms the view expressed in the original material submitted with the EIS that there will be loss of sunlight to the first floor windows but that overall adequate lighting will remain available to this building. In particular drawing P3003 Revision A –received by the PA on 14<sup>th</sup> November 2011 is useful in this regard. Notwithstanding some loss of light to the rear of buildings on Victoria Road I do not consider that the proposed development would seriously injure the amenity of these properties to an extent as to require refusal of permission. Having regard to the regeneration objectives for the docklands area set out in the City Development Plan and LAP it would not be reasonable to frustrate the re-development potential of this site by requiring that no impacts arise for adjoining property.

**12.29** In relation to the concern expressed in the third party appeal that the site is too close to the Carey Tool Hire premises the roof at its closest is 3.125m off the boundary with the adjoining site to the west. The proposed development is therefore

well within the applicant's site and will not oversail adjoining property or by reason of proximity undermine the development potential of that property.

### **12.30 Flooding**

**12.31** The Flood Risk Management Guidelines for planning authorities (DoEHLG 2009) require planning authorities to include a flood risk assessment (FRA) as part of their plan making and development management functions. The City Development Plan (Chapter 12) requires that applications provide a flood risk assessment and satisfy the planning authority that any identified floor risk is successfully managed. The application included an FRA which reproduced the draft Lee CFRMP mapping data which indicates that the dock area and Albert Quay East is vulnerable to a 1:100 fluvial flood event and that that part of the site proposed for the access/foyer is liable to a 1:200 year flood event. Relaying of the Lee CFRMP data the application calculates that a mid-range future event (1:200 years to 1:1000 years) could reach heights of 3.64 for fluvial flooding and 3.77 for tidal floods. Therefore the site is within flood zones A, B and C as defined in the Flood Risk Management Guidelines. The Flood Risk Management Guidelines advise that notwithstanding the probability of flooding within zones A, B and C those certain forms of 'less vulnerable development' such as retail, leisure, and commercial and non-residential development may be appropriately located in these flood risk zones.

**12.32** The South Docks LAP (4.10.2 Flood Protection) comments in light of the early estimates from the Lee CFRMS study that a finished floor level of an approximate minimum 3.5mOD for ground floor levels should apply in the south docks area. The application makes the point that the proposed development will generally have a ground floor level of 3.6m OD but that specific areas such as the foyer will be at 2.85mOD.

**12.33** The planning authority requested by way of additional information details of passive flood protection for the lower ground floor to a minimum of 3.5m OD with no reliance on human or mechanically activated means.

**12.34** In response to this request the applicant stated that the lower ground floor is proposed to have a ground level of 2.85mOD in order to replicate the level of the existing footpath on Albert Quay and to allow for the integration of Navigation House into the overall structure. The lower ground floor will be fully flood resilient.

**12.35** The planning authority imposed condition 16(b) which a minimum ground floor level of 3.5mAOD. The applicant appealed this on the grounds that the ground floor level must accommodate both the existing footpath level and the level of the existing Navigation House and that the condition should be amended to reflect the levels as proposed in the application and amendment submitted during the application. The planning authority appears partly to accept this point and suggests a condition specifying that "the lower ground floor (foyer) shall be designed to be flood resilient with perimeter defence to prevent flood intrusion into the main building". The applicant welcomed this revision of the planning authority's position (see page 6 of applicant's submission received by the Board 19<sup>th</sup> June 2012).

**12.36** Having regard to,

- the zoning of the area for commercial development,
- the brownfield nature of the site,
- the identification of the site as suitable for redevelopment in the South Docks LAP,
- to the form of development being proposed which is designated as low risk in the Flood Risk Management Guidelines,
- to the flood resilient measures proposed in the application and the limited area of the over all development subject to flood risk

I consider that there is a low risk to public safety through flooding of the development or displacement of flood water to other areas.

**12.37** In the event that the Board decides to grant permission I recommend attaching a condition as follows;

The lower ground floor (foyer) shall be designed to be flood resilient with flood defence arrangements to prevent flood intrusion into the main building. Prior to the commencement of development the developer shall lodge details of these measures for the written agreement of the planning authority and in default of agreement the matter shall be referred to the Board for determination.

Reason: In the interest of flood protection and public safety.

**12.38 Public Safety**

**12.39** The site is served by a single public road frontage (74.3m) along Albert Quay East. The quayside façade provides a significant number of pedestrian entrance/exit points for customers of the event centre. The initial application (chapter 3 EIS) provided that deliveries (performers' materials, food and drink deliveries, cleaning services) will be made at a service entrance on the eastern end of the site and the vehicles will exit through a service exit on the western end. There will be no on-site customer parking but paid off-street parking is available in City Hall car park, Kent Station car park, Merchants Quay car park and other off-street parks on Penrose Quay and St Patricks Quay. Five disabled car spaces will be provided on Victoria Road more or less opposite the Port Bar. Buses will park on Victoria Road as will taxis; the latter will be called by radio to the Albert Quay East frontage to pick up patrons. There will be no set down on Albert Quay East.

**12.40** Following reports from Roads/Transport departments the planning authority sought further information in relation to;

- patrons' travel modal split and direction in which they will arrive and disperse,
- an assessment of the adequacy of upgraded junctions/traffic signals at Albert Street/Albert Quay/Eamonn DeValera Bridge, Albert Street Albert Road and at Custom House Street (changes to these junctions/crossings were proposed in appendix 5 of the EIS).
- Drawings showing the proposed modification to the nearby proposed road layout. The drawings should also show how eastbound traffic and the proposed Bus Rapid Transit (BRT) corridor would be accommodated on Albert Quay.
- A revised crowd dispersal model, and
- Details of comparable developments.

**12.41** The response to the request for further information made the following points.

- The modal split would be 60% car, 25% walking, 10% public transport, 5% taxi.
- As there is no on-site parking all patrons will arrive on foot; 74% from the west, 26% from the east.
- There are 10 car parks in the city centre providing 4,223 spaces.
- The crowd dispersal model envisages some Garda assistance to manage the intersections at Albert Street/Albert Quay/Eamonn DeValera Bridge, Albert Street/Albert Road and on Custom House Street.
- Drawings P1002 Revision A and P1003 Revision A (received by the planning authority 3<sup>rd</sup> February 2012) illustrates the modifications to the nearby road network and drawings P1004 Revision A (received by the planning authority 3<sup>rd</sup> February 2012) illustrates the proposed bus corridor.
- Appendix 10 of the revised EIS provides a model for crowd dispersal.
- The venue is comparable to the Turners Cross football ground.

**12.42** The Roads/Transport departments did not comment on these submissions. The Planning Policy section commented that the development is shoe-horned into the site thereby foregoing the opportunity to create linkages and permeability with adjoining sites and streets. The issues of public safety and traffic management remain unresolved and the proposal should be refused. The Chief Fire Officer reviewed the case with reference to code compliance, credible worst case (e.g. a HGV fire on the quay), severe hydrocarbon fire (e.g. a petrol tanker on fire) and an extreme event

(terrorist attack). He concluded that there was no objection from a fire safety point of view to a grant of permission.

**12.43** I would identify the strategic public safety issues for the development as size of venue in relation to the size of the site and getting patrons into the venue and getting them away.

**12.44** The City Development Plan (Chapter 16) sets out a number of urban design principles which will guide development within the city; the second of these principles is “to promote places that allow for ease of movement, permeability and integration”. The South Docks LAP (figure 5.4a) illustrates an indicative east/west pedestrian route through the site and the adjoining Carey Tool Hire site. The proposed development has not had regard to this advice which has resulted in a development with a capacity for 6,000 patrons and additional staff within a relatively small site which has only one free boundary onto Albert Quay East over which all visitors, performers and staff must pass. The initial Chief Fire Officer’s report recommended refusal on grounds of public safety related to this single street frontage. Subsequent to the submission of further information the advice of the Chief Fire Officer is that public safety is not compromised by this arrangement. Nonetheless I consider that a much improved form of development would be achieved by taking the advice set out in the City Development Plan and LAP whereby permeability through the site would both enhance the urban design quality of the development and provide better access for patrons, services and vehicles.

**12.45** The further information submitted states that there are two pedestrian access routes for the proposal. The operator of the event centre will issue two types of ticket which will advise patrons of these two approaches – see appendix A – Pedestrian Study lodged as FI. The first route to the event centre is from Custom House Street/Eamonn DeValera Bridge/Albert Quay. The second route requires patrons to pass the intersection of Albert Quay East/Eamon DeValera Bridge, follow Albert Street, turn into Albert Road, turn into Victoria Road at the roundabout and at the top of Victoria Road to turn into Albert Quay East to access the event centre. The application claims that this ticketing arrangement/separated access routes will achieve a 50:50 split of patrons entering the proposed development.

**12.46** This is not a credible claim. I consider it highly unlikely that patrons who have walked from the bus station, Kent Train Station or city centre car parks will adopt an entirely counterintuitive journey pattern and add a further 560m (my estimate) walk to their journey when they can see the façade of where they want to visit 100m from the Albert Street/Albert Quay junction.

**12.47** The additional information bases its 6,000 patron post event exit strategy on the same assumption – that 50% of an audience will chose to add almost a ½ kilometre walking distance to their journeys back to car/bus/train. Since the assumptions (see page 15 of the Appendix A) underlying the predicated split are not credible I am not satisfied that the conclusion that there will be safe access and egress is valid. Finally on this issue it may be noted that the further information submission (site Plan Drawing P1001 Rev B) shows a footpath width of a minimum of 5m. The amended road layout (drawings P1002 Revision A and P1003 Revision A received by the planning authority 3<sup>rd</sup> February 2012) provides for a 7m wide roadway

accommodating a bus corridor and an east bound traffic lane – and no provision for cyclists despite the provision of cycle parking on site –therefore requiring that pedestrians, cyclists, a bus corridor and taxi pick-ups all be accommodated within a frontage of about 75m.

**12.48** It is a policy of the planning authority set out in the City Development Plan (Policy 11.6) to support the development of indoor and outdoor recreational facilities which are easily accessible to all members of the community. The National Disability Authority’s figure for the ‘incidence of disability’ in 2011 found that 23% of the population either had a disability themselves or lived in a household with a person with a disability. The NDA makes the point that car parks should be accessible, easy to use, and should provide sufficient parking spaces within a well-designed environment to meet the needs of all people expected to use them. The provision of an adequate number of off-street parking spaces should discourage indiscriminate parking, which can obstruct access and make the roadway environment hazardous for everybody.

**12.49** The application makes no provision for on-site customer parking. Having regard to the proximity of bus station, Kent Train Station, availability of nearby public parking and the proposed development’s city centre location I consider this is acceptable. The proposed development provides no on-site disabled parking and the further information provides for five disabled parking spaces on Victoria Road. The application does not offer a rationale for this number but as it represents 0.08% provision for the maximum capacity of 6,000 patrons and having regard to the NDA’s reported ‘incidence of disability’ I consider this level of provision inadequate. It may be noted in this regard that persons with disabilities would be expected to split 50:50 between the closer Custom House Street/Eamonn DeValera Bridge/Albert Quay and the more distant route further adding to the unfeasibility of this arrangement.

**12.50** The City Development Plan (17.105) states that

“increasing cycle usage in Cork will require an integrated approach between improving the cycling infrastructure and promoting its use. The provision of improved cycling infrastructure will go some way to increasing cycling use within the city. However, additional policy measures and controls will be required to ensure cycling remains attractive, particularly with regard to parking control and new developments within Cork City. Development Management decisions can play a central role in achieving this”.

The application makes provision for 40 bike stands and states (page 12 of FI Response) that these are designed and located primarily to accommodate staff. Table 17.9 of the City Plan requires the provision of 1 cycle parking space for every 30 cinema seats. Although the proposal may not be directly comparable to cinemas it is clear that an almost total lack of cycle parking fails to have regard to the policy of the planning authority set out in the City Plan and further limits the accessibility of the proposal.

**12.51** It is possible to view conditions 4 and 5 which refer to event management practice and have been appealed by the applicant as arising from an attempt on the part of the planning authority to mitigate some of impacts arising from the fundamentally unsuitable form of development being proposed. The applicant is particularly concerned that the requirement to submit an annual event safety

management plan would make it difficult to pre-book events – presumably on the basis that attendance may fluctuate and that the planning authority may not approve the safety plan. Notwithstanding that the applicant has separate statutory responsibility under other codes and legislation (the Health and Safety/Intoxicating Liquor Acts) I do not consider it unreasonable that the applicant should have a responsibility to satisfy the planning authority as to the overall public safety/crowd management of the events particularly where such arrangements would bear on the carrying capacity and safety of a major city traffic artery. In the event that the Board decides to grant permission I would recommend a condition along the following lines to replace the planning authority’s condition 4.

Prior to commencement of development the operator shall submit annually an event safety management plan for the proposed development for the written agreement of the planning authority.

Reason: In the interests of public safety.

**12.52** Condition 5(a) requires that where an event would exceed a 33% capacity it must take place on a weekend or if it takes place on Monday to Friday it must finish after 6.30pm. Condition 5(b) requires a detailed event safety management plan for events where the attendance would exceed 33%. The reason for the condition is given as “in the interests of public and traffic safety and in order to ensure that there are no significant negative impacts on the local road traffic network”.

**12.53** The Development Management Guidelines (DOEHLG 2007) comments that;

“A condition that radically alters the nature of the development to which the application relates will usually be unacceptable. For example a condition should not require the omission of a use which forms an essential part of the proposed development, or a complete redesign of the development. If there is a fundamental objection to a significant part of a development proposal and this cannot be fairly dealt with in isolation from the rest of the proposal the proper course is to refuse permission for the whole”.

**12.54** Condition 5 effectively undermines the raison d’etre of a 6,000 person capacity event centre in the normal working/daytime conference hours and therefore negates the DoEHLG advice. The applicant suggests that this condition be replaced by one similar to condition 6 imposed by the Board in PL.28.239383 -

Prior to the commencement of development, the developer shall submit a full emergency evacuation plan for the event centre, cinema, and brewery experience. In the event of a failure to agree on any alterations required to public areas on or around the site, this matter shall be referred to An Bord Pleanála for final decision.

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

**12.55** But I do not accept that this is a comparable case since in PL28.239383 because in that case the site frontage onto South Main Street was more than twice the length of the site frontage in the present case, that application provided a 20m deep

plaza between the entrance and South Main Street and provided for two new bridges across the River Lee from the “back” of the site.

**12.56** But the fundamental question is why are these conditions necessary? If the crowd dispersal analysis submitted with the application is correct it is unnecessary to attach conditions limiting the use of the event centre to particular times or percentages of capacity.

**12.57** There are two basic strategies which would allow for development of the site; (a) gain access for service vehicles, some patrons, cyclists and an emergency escape route (for example through the car park to the rear of St Johns Ambulance Brigade Office/Neptune House office building) onto Victoria Road or (b) move the front façade back into the site generating a plaza and patron “refuge” separated from private traffic and public transport on the Albert Quay East and reduce the capacity of the development.

### **12.58 Condition 8**

**12.59** Condition 8 requires that

“The public lighting on Albert Quay and on Albert Street adjacent to the permitted development shall be upgraded to modern standards at the applicant’s/developer’s expense. Details shall be agreed in writing with the planning authority prior to commencement of operation of the proposed development”.

Reason: In the interest of traffic safety.

**12.60** The applicant appealed this condition because the payment is covered by the contribution condition (condition 21), the development does not front onto Albert Quay but Albert Quay East and these public lighting improvements have been required in other ‘live’ planning permissions. The planning authority has argued that this condition is required by public safety concerns and that the works must be carried out at the applicant’s expense and he will be reimbursed if other planning permissions are implemented in the 7 year period.

**12.61** Where the planning authority identifies works which are required to be carried out in the public realm and which can be linked to a particular application for planning permission the correct method of financing these works is through the imposition of a special contribution condition under section 48(2)(c) of the Act. This allows the planning authority to specify the works for which the contribution is being sought, the amount being sought and makes provision for the developer to be reimbursed if the works are not commenced within 5 years of the date of payment or not completed within 7 years. If permission is granted in this case I recommend attaching such a condition referring to works on Albert Quay East and Albert Street.

## **13. ENVIRONMENTAL IMPACT ASSESSMENT**

### **13.01 Compliance with the requirements of Articles 94 and 111 of the Planning and Development Regulations 2001, as amended**

I consider the submitted EIS complies with Articles 94 and 111 of the Planning and Development Regulations, 2001, as amended. The EIS contains the information specified in paragraph 1 of Schedule 6 of the Regulations. The EIS: -

- Describes the proposal, including the site and the development's design and size;
- Describes the measures envisaged to avoid, reduce and, if possible, remedy significant adverse effects;
- Provides the data necessary to identify and assess the main effects the project is likely to have on the environment;
- Gives an outline of the main alternatives studied and the main reasons for the choice of site and development, taking into account the effects on the environment.

The EIS contains the relevant information specified in paragraph 2 of Schedule 6 of the Regulations. This includes: -

- a description of the physical characteristics of the project and its land use requirements;
- the main characteristics of the wind energy process to be pursued;
- the emissions arising;
- a description of the aspects of the environment likely to be significantly affected by the proposal;
- a description of the likely significant effects on the environment resulting from the development's existence, the development's use of natural resources, the emission of pollutants and creation of nuisances, and a description of the forecasting methods used; and
- provision of an indication of any difficulties encountered in compiling information.

There is an adequate summary of the EIS in non-technical language.

### **13.02 Identification of the likely significant direct and indirect effects of the project the environment**

The submitted EIS and my assessment preceding this part of my report focus on the significant direct and indirect effects arising from the proposed development. I propose here solely to identify the main likely effects under a range of headings as follows:

### **13.03 Human Beings**

Population Change  
Employment  
Community

### **13.04 Soils**

Groundwater  
Surface water

### **13.05 Water and Services**

Water Supply

### **13.06 Air Quality & Climate,**

Construction Phase  
Operational Phase

### **13.07 Noise and Vibration**

Construction Phase  
Operational Phase

### **13.08 Flora & Fauna**

Flora  
Bats  
Birds

### **13.09 Traffic, Transport and Parking**

Construction Traffic  
Event Management

### **13.10 Cultural Heritage & Archaeology**

Effects on archaeology

### **13.11 Cultural Heritage – Historic Structures**

Effects on heritage structures on site

### **13.12 Waste**

Construction phase  
Operational phase

### **13.13 Material Assets**

Flooding

### **13.14 Visual Impacts**

Macro Landscape impacts

Micro Landscape Impacts

### **13.12 Description of the likely effects identified**

The likely effects arising from the development proceeding are anticipated to include the following: -

### **13.13 Human Beings**

Population Change

Encourage pollution growth

Employment

Growth in construction jobs, some long term jobs and support to jobs in surrounding area

Community

Positive visual impact on area/attract activity, tourism to area.

### **13.14 Soils**

Groundwater

Excavations will be insulated from the high water table on site – no impact.

Surface water

The development will make use of an existing but disused surface water outfall.

### **13.15 Water and Services**

Water Supply

Development will connect to existing services – no impact

### **13.16 Air Quality & Climate,**

Construction Phase

Some dust – mitigated through water spraying, wheelwash, cleaning surfaces

Operational Phase No impact

### 13.17 Noise and Vibration

Construction Phase Noise impacts limited to NRA thresholds.

Operational Phase Noise control measures are proposed (building materials/management practice). Some residual impacts on residential uses on Victoria Road

### 13.18 Flora & Fauna

Flora Site not important for flora

Bats No evidence of bats identified on site.

Birds Buildings will not be demolished during nesting season

### 13.19 Traffic, Transport and Parking

Event Management The proposed development can access Bus Eireann services, Irish Rail, Green Routes, taxis, park and ride, walking, cycling and off street parking facilities in the city.

### 13.20 Cultural Heritage & Archaeology

Effects on archaeology No Impact

### 13.21 Cultural Heritage – Historic Structures

Effects on heritage structures on site Loss of minor building, retention of most important element – Navigation House

### 13.22 Waste

Construction Phase A construction and demolition waste management plan will accord with the Cork City Waste Management Plan

Operational phase

Waste disposal to land fill will be minimised so that the long term neutral impact.

### **13.33 Material Assets**

Flooding

The application includes a Flood risk assessment including a justification test

### **13.24 Visual Impacts**

Macro Landscape

The predicted impacts are neutral or highly beneficial

Micro Landscape

The predicted impacts are highly beneficial.

### **13.25 Interactions**

The proposal will not give rise to an adverse noise impact for human beings because of its city centre location. There may be short term adverse visual impact but longer term the proposal will provide a gateway to the city.

There will short term construction traffic adverse impact in the area, long-term there will be economic regeneration for the area and some permanent jobs. The physical urban landscape will improve.

### **13.26 Assessment of the likely significant effects identified, having regard to the mitigation measures**

The assessment set out above considers the range of relevant likely significant effects including the mitigation measures proposed in the application. Below is my assessment significance of the impacts identified.

### **13.27 Human Beings**

There will be a slight negative impact for residents/occupiers of the buildings on Victoria Street in so far as some diminution of direct sunlight will occur.

Residents and visitors will experience an improvement in the streetscape as a better building will replace a relatively underused/drab urban block.

The most significant negative impact which is not adequately addressed in the EIS or eth amending further information is that significant traffic congestion and conflict between pedestrians and public and private vehicular traffic is likely to occur along the proposed buildings street frontage.

### **13.28 Flora & Fauna**

The site is not important in terms of habitats for flora or fauna.

### **13.29 Landscape and Visual Impact**

There will be long-term significant impacts on the landscape of Cork Docks north and south. Generally I consider that such an impact would be positive.

### **13.30 Cultural Heritage**

There is a slight loss of built heritage with the loss of the two gable fronted warehouses on site. I do not consider that significant.

### **13.31 Material Assets**

There is a significant risk of long term substantial damage to the safety and carrying capacity of Albert Quay East and the wider network of streets in the area with a significant risk to the viability of the planning authority's proposed Bus Rapid Transit scheme.

## **14. APPROPRIATE ASSESSMENT**

**14.01** An Appropriate Assessment was submitted in appendix 9b of the EIS. The AA identified two European sites with the potential to be impacted upon by the proposed development. These are Cork Harbour SPA and Great Island Channel cSAC. Cork Harbour SPA is 4kms distant while Great Island Channel cSAC is 8.3kms away. The cSAC holds Annex 1 habitats, no Annex 11 species but does hold other conservation species including otters and seals. The SPA has a large number of birds making up its qualifying interest.

**14.02** The Appropriate Assessment considered the potential for impacts on the European sites under the headings: run-off of sediment into the River Lee, run-off of pollutants into river and treatment of foul water. It concluded that treatment of foul water did not arise and the earlier two headings gave rise to no significant impact.

**14.03** Having regard to the relative unimportance of the site in terms of its habitat value, to the distance from receptors, to the lack of likely significant emissions which may arise and to the mitigation measures being proposed I agree with the conclusion that on its own or in combination with other plans or projects, the proposed development will not adversely affect the integrity of a European site in view of the site's conservation objectives.

## **15. RECOMMENDATION**

Having considered the contents of the application, the decision of the planning authority, the provisions of the Development Plan, the grounds of appeal and the responses thereto, my site inspection and my assessment of the planning issues, I recommend that permission be refused for the reasons and considerations, set out hereunder:

### **Reasons and Considerations**

Having regard to;

- The quantum of development being proposed on a relatively restricted site,
- The complex and counterintuitive access arrangements which patrons would be required to adopt,
- To the likelihood of significant numbers of pedestrians congregating on a relatively narrow footpath in proximity to a busy traffic route and a proposed Bus Rapid Transit lane,
- To the single public street frontage available to accommodate access for patrons, performers and services,
- To the inadequate provision for disabled parking and bicycle parking,

It is considered that the proposed development would comprise over development of a restricted site and through the creation of congestion and conflict between pedestrians and vehicular traffic on Albert Quay East and the surrounding road network would endanger public safety by reason of traffic hazard.

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**Hugh Mannion**  
**Planning Inspector**  
**31<sup>st</sup> August 2012**