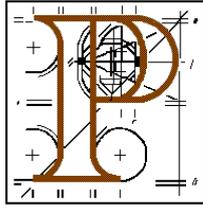


An Bord Pleanála



Inspector's Report

PL29S. 245313

DEVELOPMENT:-

Commercial and office development including works to protected structures at 1-11 Sir John Rogersons Quay, 21-22 Windmill Lane at 17 Creighton Street, Dublin 2

PLANNING APPLICATION

Planning Authority: Dublin City Council

Planning Authority Reg. No.: 2836/15

Applicant: Hibernia REIT plc

Application Type: Permission

Planning Authority Decision: Grant permission subject to conditions

APPEAL

Appellants: 1. City Quay East Residents' Association
2. Hibernia REIT plc

Type of Appeals: 3rd party vs. grant & 1st party vs. condition

Observers: 1. Shannon Guzman
2. Creighton Street Residents' Association
3. Transport Infrastructure Ireland

DATE OF SITE INSPECTION: 20th November 2015

INSPECTOR: Stephen J. O'Sullivan

1.0 INTRODUCTION

1.1 This report deals with a third party appeal against a decision of Dublin City Council to grant permission for an office development in the city centre, and a first party appeal against a financial levy attached thereto.

2.0 SITE

2.1 The site is on the south quays in Dublin between the Sean O'Casey and Samuel Beckett bridges. It has a stated area of 5,769m². It comprises the block between Sir John Rogerson's Quay to the north, Creighton Street to the west and Windmill Lane to the south and east. The eastern part of the site is occupied by a modern seven-storey building known as the Observatory. The western part includes three protected structures along Sir John Rogerson's Quay, which are two four-storey Georgian houses at Nos. 4 and 5 and the brick façade of a warehouse at No. 6. The rest of the site has been cleared. The eastern side of Creighton Street facing the site has a terrace of houses, mainly two-storey over basement, with a four storey commercial building at the corner with City Quay. The vicinity of the site has residential buildings of various ages and form, but larger, contemporary office blocks are prevalent in the area. Building works are being carried out on the site to the south along Creighton Street on the opposite side of Windmill Lane.

3.0 PROPOSAL

3.1 The development that would be authorised by a permission in this case would be the construction of a six storey office building and the conversion of the houses at No. 4 and No.5 Sir John Rogerson's Quay to offices. The new building would have a parapet height over ground floor level of 26.65m and a floor area of 12,542m². The office space in the older houses would be 647m². 3 shops would be provided on the ground floor of the new building along Windmill Lane with a combined floor area of 488m², although the one at the corner with Creighton Street might be used as a café. The brick façade of the warehouse at No. 6 Sir John Rogerson's Quay would be retained at the front of the new building, whose other elevations would be mostly glass. The basement would contain 26 car parking spaces and 205 bicycle parking spaces. Access to them would be from the basement of the neighbouring office block on the site.

3.2 The applicant described the proposed development as an amendment to the development authorised under 1057/08, the particular changes being described in the covering letter on the application as—

- A different design for the elevations
- A different layout
- A different location for the electric substation
- An increased height

- A revised design for the reinstatement of No. 6 Sir John Rogerson's Quay
- A revised access to the basement from the neighbouring office block
- Changes to the authorised café and restaurant
- Changes to the authorised live/work units
- Omission of commercial units
- Omissions of the setback at fourth floor level on Windmill Lane and alterations to the setback at fifth floor
- Revised parking

4.0 POLICY

4.1 The site is zoned Z5, "City Centre Zone". The objective for Z5 is to "consolidate and facilitate the development of the central area and to identify, reinforce, strengthen and protect its civic design character and dignity". The houses across the road on Creighton Street are zoned residential, either as Z1 or Z2. A non-statutory conservation area is designated along the quays. Section 17 of the plan specifies an indicative plot ratio standard of 2.5-3.0 for the Z5 zone, and site coverage of 90%. Section 17.6 specifies that office blocks of up to 7 storeys or 28m height will be regarded as low rise in the inner city.

5.0 HISTORY

- 5.1 Reg. Ref. 1057/08 - Permission granted by the planning authority for a mixed-use retail development on this site incorporating offices, restaurant, café, retail and 3 no. residential units with a floor area of 15,076m². An appeal to the board (PL29S.228560) related to a financial contribution only. This permission altered a previously granted permission, (1222/03), which in turn had permitted alterations to a further set of permissions granted in the late 1990s. It included the reconstruction of No. 4, rebuilding of No. 5 and the demolition of No. 1 and No. 6 Sir John Rogerson's Quay, as well as alterations and extensions to Nos. 7-11 SJR Quay. The proposal provided for the construction of a 4-6 storey mixed use building (rising to 25.5m) on the site of Nos. 1-6 with a floor area of 15,076m², with retail on the ground floor and offices overhead and basement parking for 34 cars. The only part of this scheme that has been implemented is the demolition. This appropriate period of this permission has been extended to 12th December 2018.
- 5.2 PL29S. 242357, Reg. Ref. 2664/13 – the board refused permission in January 2014 for a building for student accommodation on the site. The reasons for refusal referred to design and the impact on the character of the area.
- 5.3 PL29S/245667, Reg. Ref. 3055/15 – the planning authority decided to grant permission for a development to alter an authorised development to the south the current site on the other side of Windmill Lane along Creighton Street. That decision has been appealed to the board.

6.0 DECISION

- 6.1 The planning authority decided to grant permission subject to 17 conditions, none of which substantially amended the proposed development.

Condition no. 3 required the payment of €472,878.20 as a contribution under the supplementary contribution scheme for the Luas C1 line.

Condition no. 4 stated that the terms and conditions of the permission for the original development under Reg. Ref. 1057/08 shall be complied with except where modified by this permission.

7.0 REPORTS TO THE PLANNING AUTHORITY

- 7.1 Submissions – Third parties raised concerns similar to those expressed in the third party appeal and the observations upon it. Flooding of the basements along Creighton Street was also raised.
- 7.2 Drainage Division- No objection subject to conditions.
- 7.3 Roads Division- No objection subject to conditions.
- 7.4 City Archaeologist- No objection subject to conditions.
- 7.5 Conservation Officer- The proposed use of the protected structures as offices would be more beneficial than the permitted residential units. Conditions were recommended to be attached to any grant of permission.
- 7.6 Planner's report – This is an application for permission for amendments to previously permitted development. The proposed uses comply with the Z5 zoning. The site coverage of 91% and the plot ratio of 4.3 would be acceptable having regard to the brownfield nature of the site. The relocation of active uses to Windmill Lane should enliven the laneway and combat anti-social behaviour. The proposed height is not excessive for the quays but the lower scale of the houses on Creighton Street must be acknowledged. The shadow analysis indicated minimal differences from the authorised development. The revised façade would be a simpler and less dominant presence Creighton Street. The proposal is successful in design terms in its response to the protected structures. The proposed sub-station would offer little animation to Creighton Street but it is acceptable in the context of the overall development. A grant of permission was recommended.

8.0 GROUNDS OF APPEAL

8.1 The grounds of the third party appeal against a grant of permission can be summarised as follows –

- The higher building will overlook and overshadow surrounding properties
- The placing of an ESB sub-station on Creighton Street is not justified and does not take into account residential properties.
- Putting a lot of bicycle parking around the building will make car parking for residents and visitors more difficult.
- The building works have reduced the width of Creighton Street and a proper traffic plan was not put in place, creating a traffic hazard.
- The loss of pedestrian traffic since the demolition of Windmill Lane has led to more anti-social behaviour. The development will not create active frontage along Creighton Street.
- The construction works have intimidated residents. Dublin City Council has authorised building works out-of-hours on at least four occasions and window cleaning has not been maintained. Machinery was used at 0300 on one occasion. Vermin control has not been properly implemented. There is no adequate complaints procedure

8.2 The grounds of the first party appeal against a condition can be summarised as follows-

- The appeal is made under sections 49(3) and 49(3A) of the act against the imposition of condition no. 3 of the planning authority's decision which seeks a financial contribution of €472,878.20 under the supplementary contribution scheme for the Luas C1 line.
- The planning authority has not properly applied the terms of the supplementary scheme. The current proposal would result in less floorspace being built on the site than if the extent permission Reg. Ref. 1057/08 were implemented. The reduction would be 511.5m². As no additional floorspace is being proposed the planning authority does not have the power to impose a levy under the supplementary scheme. The condition seeks to retrospectively apply a levy to a scheme that was granted permission in November 2008 which pre-dates the adoption of the supplementary scheme in September 2013. The development authorised under Reg. Ref. 1057/08 has commenced with the demolition works on site.

- The basis for the determination of the contribution under section 7 of the scheme is the amount of anticipated new development in the relevant area and specifically discounts existing development. The appeal site could not be considered land with the potential for development as it already had a permission upon it.
- The board's decision under PL16. 241088 establishes a precedent that no retrospective levy can be applied where a permission would not provide additional floorspace.

9.0 OBSERVATIONS

9.1 The observation from Shannon Guzman can be summarised as follows-

- The increased height of the building would unduly overshadow local residents. If greater ceiling heights are necessary then the number of floors could have been reduced.
- The removal of residential units would undermine the appropriate balance of uses and character of the area. The single use pattern would encourage commuting and would fail to respond to the demand for housing in the city.
- The proposed café on Creighton Street and Windmill Lane would be unacceptable as it would intrude on residents and would cause problems with litter and waste.
- The ESB sub-station on Creighton Street will be a visual intrusion and cause noise pollution, as was recognized by the planning authority when it imposed condition no. 3(a) on 1057/08. There has been a proliferation of proposals to locate sub-stations along Creighton Street in recent years. The applicant did not submit a noise and vibration report or a fire safety assessment for the sub-station.

9.2 The observation from William Finnie of the Creighton Street Residents' Association can be summarised as follows-

- The proposed building would be too high. The board's decision on PL29S. 242357 which stresses the need for a proper interface with Creighton Street was not considered by the planning authority. The height line that would be appropriate for the quays would not be appropriate for Creighton Street. The board should refuse the proposal to insert an extra storey to preserve the character of the street and avoid creating a canyon along it. The loss of floorspace could be recouped by providing additional height in the centre of the development. The proposed building would rise directly from the street to a height more than

double the width of the street and 3 times higher than the residential side of the street creating an unacceptable shear break with the existing streetscape. The additional height will have a negative impact on the privacy of the bedrooms and living rooms at the front of the houses along Creighton Street, adding to the substantial loss of light to the homes there.

- The proposed ESB substation along Creighton Street would cause noise pollution and provide an unacceptable blank elevation to the street.
- The amenities and character of the houses along Creighton Street should be protected to reflect its Z2 zoning as a residential conservation area bounding areas zoned Z5 for central areas.

9.3 The observation from Transport Infrastructure Ireland can be summarised as follows-

- Section 49 of the act allows the imposition of levies when permission is granted under section 34 of the act. A grant in this case would be a grant under section 34 and so a section 49 contribution can be required in respect of it. The supplementary scheme was in place when the planning authority decided to grant permission so the levy was not being imposed retrospectively. There is no basis to support a proposition that the development would not benefit from the Luas C1 line. In fact it would. The viability of the C1 project depends on the levy scheme.
- The facts of the case in PL16. 241088 are unusual and are not relevant to the current case. The original development in that case had been completed and the levies already paid in respect of it. It was of a very different nature and scale to the current proposal.

10.0 RESPONSES

10.1 The planning authority's response to the first party appeal said the condition requiring a financial contribution was imposed at the request of TII and calculated in accordance with the terms of the scheme.

10.2 The third party's response to the first party appeal stated that the proposed building would rely on public transport as there would only be 26 car parking spaces for over 800 staff. The C1 Luas line is only 6 minutes' walk away.

10.3 The applicant's response to the third party appeal can be summarised as follows-

- The proposed amendments are substantially within the permitted height, scale and massing of the development. They seeks to improve its appearance and rationalise the ground floor uses to ensure active streets at appropriate locations, provide viable uses in the protected structures

and improve the relationship between those structures and the new building.

- The increase in the floor to ceiling height over 6 floors is required to facilitate a high quality office scheme such as this. It would result in an overall increase in height of 2.4m. The submitted shadow analysis and vertical sky component study demonstrate that it will not have a negative impact on daylight and sunlight to existing properties.
- The design and location of the proposed substation were carefully considered, in particular with the need to ensure adequate active frontage along Windmill Lane that already has blank frontage due to existing substations and a basement gate. Substations are commonly placed on street frontages close to residential properties. The relocation would not contravene condition no. 3a of the parent permission issued by the board. A noise assessment is submitted that demonstrate that the predicted noise levels at the nearest sensitive receptor would be 35dB(A) which is not likely to have a significant negative effect on amenity.
- There is no bicycle parking at surface level, only in the basement to development plan standards.
- The issues raised in relation to building works under 1057/08 are not relevant to the subject matter of this appeal.
- There is only a small residential element in the authorised scheme of 1 unit and 2 live/work units. The commercial viability of units in the protected structures was uncertain. Offices would be a viable long term use in accordance with the guidelines on the protection of architectural heritage. There is a significant residential community in this area already. The proposed active uses along Windmill Lane and Creighton Street including a café and a retail/own door office unit, which will ensure activity and vitality and appropriate surveillance in the area. The proposed mix of uses comply with the Z5 zoning of the site.

10.4 The applicant's response to the submission from TII can be summarised as follows-

- The first party did not distinguish between benefit and direct benefit in its appeal against the section 49 levy. TII did not address the applicant's case that a levy is not payable under the supplementary scheme for a scheme that was permitted before the scheme was adopted and commenced, and when the subsequent permission does not authorise any floorspace. The proposed development comprises only amendments to an existing permission and does not propose any more floorspace. Applying the rate specified in the scheme to a development of 0m² would

yield a levy of €0. As the proposed development has no floorspace, it would not benefit from the Luas. No additional levy under the section 48 scheme was applied in this case by the planning authority. It would not be inequitable and unreasonable to levy a contribution on a retrospective basis. The application site could not be considered land with the potential for development under section 7 of the supplementary scheme because there was an extant permission upon it.

11.0 ASSESSMENT

The issues arising from the proposed development can be addressed under the following headings –

- The nature of the development and the first party appeal
- The proposed uses
- The scale and design of the development
- Impact on the amenities of adjacent property

The nature of the development and the first party appeal

- 11.1 This is an application for permission for development under section 34 of the planning act. Development is defined by section 3 of the act as works on land or changing the use of land. So what can be authorised by a permission issued on foot of this application is works to land and a change in the use of land. These are real activities that can only occur in the real world. Changing a plan or a proposal, even one authorised by a previous permission, involves changing an idea. It does not constitute works to land or a change in the use of land and so does not constitute development for which permission may be sought or granted under section 34 of the planning act. There is a procedure under section 146B whereby the board can amend the terms of planning permissions that it has granted for strategic infrastructure development. There is no equivalent provision for amendments to permissions granted by planning authorities under section 34.
- 11.2 It is not uncommon for a landowner to wish to carry out a development that is similar to a development that has been authorised by a planning authority on the same site, but which is nonetheless materially different so that it would not be authorised by the extant permission. This situation is envisaged by article 162 of the regulations which allows a refund of three quarters of an application fee in certain circumstances for repeat applications. The article would not apply in this case because of the very long time since the previous application was made and fact that it was made by a different applicant. However, although regulations do not determine the interpretation of their parent statute, the terms of article 161(2)(b) do illustrate the fact that a proposed development that is of a similar description and character to a previously authorised development on the same site is a separate development from the authorised one.
- 11.3 Nevertheless a practice has emerged whereby planning authorities accept and consider planning applications when the applicant has described the development as an amendment to an authorised development rather than as the actual works which he is seeking to carry out on land. There may be circumstances where this approach is reasonable even though it is not provided for under legislation. It may become apparent during the detailed design process for the ancillary parts of a development that normally occurs immediately before and even during construction that changes are required to

complete the development that might be take it outside the terms of its permission. In such a case it might be prudent to allow the planning authority and the public to consider those changes without revisiting the question of the entire development.

- 11.4 Such circumstances do not apply in this case. The development proposed in this application is similar in scale and character to the authorised development on the site, but it is quite different in the many ways outlined in the description of development provided by the applicant. The works that have been carried out on foot of the previous permission involved site clearance and do not constrain the potential form of building on the site. So the development that is actually proposed in this application needs to be considered on its own merits. Of course this consideration would require a comparison with the authorised development that could be carried out even if the current application was refused. But before the board makes a decision on an application it has a duty to fully consider the actual development that would be authorised if that application was granted. This duty may not be fettered by a convoluted or tendentious description of development provided by an applicant, or by a planning authority's acceptance of such a description.
- 11.5 The description of development provided by the applicant in this case is particularly problematic. It refers to a permission granted 7 years ago which itself refers to a permission granted 5 years before that which also refers to several permissions granted up to 5 years before that again. There is a chain of various descriptions of various proposed and authorised developments that have been provided by different applicants that reach back 17 years. So, even if the board wished to fetter its jurisdiction by only considering to the changes from one proposed development to the next, to do so would be impracticable. It would be nearly impossible for a member of the public to make a properly informed submission on the application if it were to be considered in such a complicated and disjointed manner. The question arises as to whether the description of development in this case is so flawed as to render the application invalid. The established practice of the board was not to consider the validity of an application which had been accepted by a planning authority. This approach was examined by the High Court in the case of *McCallig vs. An Bord Pleanála* and deemed unacceptable (2011 JR 291, para 64 at p34). So the board should consider the validity of this application. However I would advise that it may proceed to a decision upon it. No party or observer has argued that the application is invalid. The fact that the planning authority accepted an application fee that is less than it might have required would not render the application invalid. It is clear from the submitted plans and particulars what the development that could be authorised on foot of this application would actually be. None of the parties or the observers appeared to be confused on this question. Furthermore, the authorised development on the site remains a relevant consideration for the current application, even though it should not constrain the full and proper assessment of the proposed development.

11.6 Having regard to the foregoing, the grounds of the first party appeal against the imposition of a levy under the supplementary contribution scheme for the Luas C1 line are implausible. If this application were granted, it would authorise the development over 12,000m² of commercial and 268m² of retail floorspace on a site within the area to which the supplementary contribution scheme applies. The authorised development would benefit from the Luas C1 line to which the scheme refers. A grant of permission should therefore include a condition imposing the financial contribution required under the adopted supplementary scheme. The rates set out in the scheme should be applied to the amount floorspace that would be contained in the development that would actually be authorised by a grant of permission on foot of this application. It would be unjust to allow the applicant to avoid the obligations that were duly imposed by the proper adoption of the supplementary contribution scheme on the basis of the defects in the description of the proposed development which the applicant itself composed. It would also be unfair to the taxpayer upon whom the additional financial burden would then fall in respect of the costs of the construction of the Luas C1 line from which the proposed development would benefit. The imposition of a levy under the supplementary scheme would not be retrospective. It would apply to a permission that was sought and granted after the supplementary contribution scheme was made. The reference in the first party appeal to a very different development and set of circumstances in Mayo is not apt. The calculation of the rates set out in the details submitted by the planning authority indicate that the amount of that contribution would be €472,878. The detailed figures in this calculation appear reasonable and accurate and they have not been challenged by the applicant. The reference in the scheme to the discount for existing development relates to the setting of the rates of the levy to be imposed per square metre of new development in the overall area. It is not relevant to the calculation of the levy required for a particular authorised development. So if the board granted permission in this case, it should attach a condition requiring a financial contribution of €472,878 under the supplementary contribution scheme for the Luas C1 line.

The proposed uses

11.7 Office use would predominate in the proposed development. This is acceptable, having regard to the city centre location and zoning of the site. While most of the recent development in the vicinity is for office use there is much residential accommodation in both older and more recent buildings in the area, so the mix of uses there is not a pressing concern that would justify refusing the current application. Creighton Street is a secondary route with a residential use and zoning on its western side opposite the site. The uses that the proposed development would provide along that street are appropriate to its circumstances, with a shop or café on the corner along with another commercial unit with direct access from the street. The proposed office uses at Nos. 4 and 5 Sir John Rogerson's Quay are appropriate to provide viable long

term uses for the protected structures to protect what remains of their historic built fabric.

The scale and design of the proposed development

- 11.8 The scale of the development is appropriate to its location in the city centre along the quays. It would provide a frontage along Creighton Street that was much higher and of a very different character to that provided by the existing houses opposite. However this is considered acceptable for an area near the docklands whose uses and built character are in transition. The scale of the proposed development would not be significantly greater than other existing and authorised developments in the vicinity. While the proposed building would have a greater overall height than that already authorised on the site, its impact on the character of Creighton Street would be marginally less given the greater setback provided at the fifth floor level. The plot ratio and site coverage, at 4.0 and 91% respectively for the entire site, would be somewhat higher than the standards of 3.0 and 90% specified for the Z5 zone in section 17 of the development plan. But they are acceptable for such a brownfield site served by the DART and Luas.
- 11.9 The detailed architectural design of the proposed building is successful. It will provide a reasonable degree of visual interest in longer views from the quays as well as in nearer views from Creighton Street and Windmill Lane. The proposed development would properly integrate and conserve the surviving elements of the protected structures along Sir John Rogerson's Quay, including the façade of the warehouse at No. 6. The proposed development will therefore make a positive contribution to the character of the area of the quays in general.

Impact on the amenities of adjacent property

- 11.10 The third party appellant and two of the observers raised concerns about the impact of the proposed development on the houses on Creighton Street due to overlooking and overshadowing. The western elevation of the proposed development would be c15m from the facades of the houses on the other side of Creighton Street. It would rise to a height of c19m over street level, after which there would be a setback of c4.2m at the fifth floor level, with another similar setback to the sixth floor level. The measurements are those at the southern part of the western elevation, opposite the houses. The service core at the northern end of the elevation opposite the existing four-storey building on Creighton Street does not have the same setback. The development would therefore lead to more overlooking and overshadowing of the front of the houses on Creighton Street than currently occurs from the vacant site. The overshadowing is illustrated by the analysis submitted by the applicant. It is similar to the amount that would occur if the authorised development on the site were carried out. The effect of the proposed development on the neighbouring

residential properties would be noticeable. However it would not give rise to a significant injury that would justify refusing permission for the development, having regard to the central location of the site, the desirability of its sustainable development, and the impact that could arise in any event from the authorised development.

11.11 The proposed ESB sub-station along Creighton Street would not seriously injure the character of the street or the amenities of other properties along it, whether from noise, vibration, fire hazard or otherwise. The sub-station would be at a remove from the other sub-station serving the proposed development on the next block and it would not give rise to cumulative problems in this regard. The proposed development would not be likely to create or exacerbate ant-social behaviour or litter along Creighton Street or Windmill Lane to any significant degree. The operation of the corner shop or café would be subject to the same controls on litter and other nuisances as any other similar premises in a residential area. The disturbance that would arise during the construction would be temporary and can be properly addressed by conditions in the normal manner. The appropriate body to enforce such conditions would be Dublin City Council. The site and the development do not have unusual circumstances that would require extraordinary restrictions on construction. The proposals to provide car and bicycle parking in the basement with access from the existing office block are in keeping with development plan standards and would not create problems of traffic hazard or obstruction on the surrounding streets.

12.0 CONCLUSION

12.1 Notwithstanding the description of development submitted by the applicant, the proposed development should be considered on its own merits and the appropriate levies under the applicable schemes should be applied. The proposed development would be in keeping with the zoning of the site and the character of the area. It would not seriously injure the amenities of property in the vicinity of the site, nor would it give rise to traffic hazard or obstruction. The proposed development would also appropriately conserve the surviving historic fabric of the protected structures on the site. It would therefore be in keeping with the proper planning and sustainable development of the area.

13.0 RECOMMENDATION

13.1 I recommend that permission be granted subject to the conditions set out below.

REASONS AND CONSIDERATIONS

Having regard to the location of the site in the city centre along the Liffey Quays and to the Z5 zoning objective which applies to it under the Dublin City Development Plan 2011-2016, it is considered that, subject to the conditions set out below, the proposed development would make a positive contribution to the character of the area, would not seriously injure the amenities of property in the vicinity, would appropriately conserve the surviving elements of the historic built fabric of the protected structures upon the site, and would be acceptable in terms of traffic safety and convenience. Financial contributions should be paid in accordance with the contribution schemes that have been duly adopted and which are in force at the time at which the proposed development is authorised, the amounts of which should reflect the size of the development which is authorised. The proposed development would therefore be in keeping with the proper planning and sustainable development of the area.

CONDITIONS

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. A schedule and appropriate samples of all materials to be used in the external treatment of the development shall be submitted to and agreed in writing with the planning authority prior to the commencement of development.

Reason: To ensure an appropriate standard of development

3. The location of the 2 disabled car parking spaces in the basement shall be relocated to ensure that the 5 'friendly' car parking spaces do not require access through the disabled spaces, or the 'friendly' spaces shall be omitted from the development.

All costs incurred by Dublin City Council including any repairs to the public road and services necessary as a result of the development shall be at the expense

of the developer. The developer shall be obliged to comply with the requirements set out in the Code of Practice.

Reason: In the interests of orderly development and traffic safety

4. The following requirements of the Conservation Section of the planning authority shall be complied with in this development:
 - (a) The removal of the entire party wall of the front rooms from an early 18th century building is excessive and revised plans of the first, second and third floors with an opening limited to an interconnecting door between nos. 5 and 6 should be submitted for approval of the Conservation officer prior to commencement on site.
 - (b) A Conservation Architect shall be employed to manage, monitor and implement the works on site and to ensure adequate protection of any remaining historic fabric during the works. All permitted works relating to the protected structures shall be carried out in accordance with best conservation practice and the Architectural Heritage Protection Guidelines issued by the DAHG.
 - (c) Repair of any remaining original fabric and / or reinstatement of lost features shall be carried out by suitably experienced heritage contractors and / or skilled craftsmen. Materials and details shall be informed by appropriate extant examples in-situ or in similar / adjacent properties.
 - (d) A sample front door and also a window frame, sashes and glazing shall be agreed on site by Conservation staff prior to the commencement of the conservation of the protected structures. The glazing shall be crown glass.
 - (e) The windows of the rear walls of the protected structures shall be constructed so that the sashes are able to open into the atrium space.
 - (f) A sample of the proposed re-pointing method, joints and mortar to be agreed on site by Conservation staff prior to commencement of works on the protected structures.
 - (g) A monitoring programme of supervision, to be carried out by structural engineers with conservation expertise, is required in order to ensure that no damage is caused to the adjacent protected structures during the excavation and building works.

Reason: To ensure that the historic interest of the protected structure is maintained and to safeguard the integrity of the protected structures

5. The following requirements of the Engineering Department Drainage Division of Dublin City Council shall be complied with in the development:
 - a) The developer to comply with the Greater Dublin Regional Code of Practice for Drainage Works Version 6.0 (available from www.dublincity.ie Forms and Downloads).

- b) Dublin City Council's drainage records are indicative and must be verified on site.
- c) The outfall manholes from this development must be constructed in accordance with the Code of Practice for Development Works – Drainage.
- d) The development is to be drained on a completely separate system with separate connections to the public foul and surface water systems.
- e) To minimise the risk of basement flooding, all internal basement drainage must be lifted, via pumping, to a maximum depth of 1.5 metres below ground level before being discharged by gravity from the site to the public sewer.
- f) All private drain fittings such as, downpipes, gullies, manholes, Armstrong Junctions, etc. are to be located within the final site boundary. Private drains should not pass through property they do not serve.

Reason: To ensure a satisfactory standard of development

6. The developer shall facilitate the preservation, recording and protection of archaeological materials or features that may exist within the site. In this regard, the developer shall -
- (a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development,
 - (b) employ a suitably-qualified archaeologist who shall monitor all site investigations and other excavation works, and
 - (c) provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove.

In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.

Reason: In order to conserve the archaeological heritage of the site and to secure the preservation and protection of any remains that may exist within the site.

7. Site development and building works shall be carried out only between the hours of 07.00 to 19.00 Mondays to Fridays inclusive, between 08.00 to 14.00 on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: In order to safeguard the residential amenities of property in the vicinity.

8. Details of all external shopfronts and signage shall be submitted to and agreed in writing with the Planning Authority prior to occupation.

Reason: In the interest of visual amenity

9. During the construction and demolition phases, the proposed development shall comply with British Standard 5228 " Noise Control on Construction and open sites Part 1. Code of practice for basic information and procedures for noise control."

Noise levels from the proposed development shall not be so loud, so continuous, so repeated, of such duration or pitch or occurring at such times as to give reasonable cause for annoyance to a person in any premises in the neighbourhood or to a person lawfully using any public place. In particular, the rated noise levels from the proposed development shall not constitute reasonable grounds for complaint as provided for in B.S. 4142. Method for rating industrial noise affecting mixed residential and industrial areas.

The rated noise levels from the site (defined as LAeq 1 hour) shall not exceed the background noise level (as defined in B.S. 4142. Method for rating industrial noise affecting mixed residential and industrial areas) by 10 dB or more.

Reason: In order to ensure a satisfactory standard of development, in the interests of residential amenity.

10. Notwithstanding the provisions of the Planning & Development Regulations 2001(As Amended), no advertisement signs (including any signs installed to be visible through the windows); advertisement structures, banners, canopies, flags, or other projecting element shall be displayed or erected on the building or within the curtilage, or attached to the glazing without the prior grant of planning permission.

Reason: In the interests of visual amenity

11. No additional development shall take place above roof level, including lift motors, air handling equipment, storage tanks, ducts or other external plant other than those shown on the drawings hereby approved, unless authorised by a prior grant of Planning Permission.

Reason: To safeguard the amenities of surrounding occupiers and the visual amenities of the area in general.

12. The site development works and construction works shall be carried out in such a manner as to ensure that the adjoining street(s) are kept clear of debris, soil and other material and if the need arises for cleaning works to be carried out on the adjoining public roads, the said cleaning works shall be carried out at the developers expense.

Reason: To ensure that the adjoining roadways are kept in a clean and safe condition during construction works in the interests of orderly development.

13. Before the use of the proposed café commences , a scheme shall be submitted to, and approved in writing by the planning authority for the effective control of fumes and odours from the premises. The scheme shall be implemented before the use commences and thereafter permanently maintained.

Reason: In the interests of the amenities of both the immediate neighbours and general surroundings.

14. Prior to the commencement of Development, a Project Construction and Demolition Waste Management Plan shall be submitted to and agreed to writing by the Planning Authority.

Reason: In the interests of the protection and conservation of the environment, having regard to Circular WPR 07/06 - Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects - published by the DoEHLG, July 2006 and also Dublin City Council Waste Management Guidelines

15. Refuse storage facilities shall be provide prior to the occupation of the development hereby permitted in accordance with details which shall have been submitted to and approved in writing by the planning authority prior to the commencement of the development, such facilities to be permanently retained at the site.

Reason: To ensure the provision of refuse facilities to the satisfaction of the City Council.

16. The developer shall pay to the planning authority a financial contribution of €472,878 (four hundred and seventy-two thousand, eight hundred and seventy-eight euro) in respect of Luas Line C1 – Red Line Extension to Docklands in

accordance with the terms of the Supplementary Development Contribution Scheme made by the planning authority under section 49 of the Planning and Development Act 2000. The contribution shall be paid prior to the commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. The application of any indexation required by this condition shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to the Board to determine.

Reason: It is a requirement of the Planning and Development Act 2000 that a condition requiring a contribution in accordance with the Supplementary Development Contribution Scheme made under section 49 of the Act be applied to the permission.

17. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000. The contribution shall be paid prior to the commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to the Board to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000 that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

Stephen J. O'Sullivan
24th November 2015