



An  
Bord  
Pleanála

**Board Direction**  
**BD-002643-19**  
**ABP-302980-18**

The submissions on this file and the Inspector's report were considered at a Board meeting of all available Board Members held on 21/03/2019.

The Board decided by a unanimous vote to grant permission, for the following reasons and considerations, and subject to the following conditions.

### **Reasons and Considerations**

In coming to its decision, the Board had regard to the following:

- the Urban Development and Building Heights Guidelines for Planning Authorities
- the National Planning Framework
- the Dublin City Development Plan, 2016-2022 (zoning objective Z5 - "to consolidate and facilitate the development of the central area and to identity, reinforce, strengthen and protect its civic design, character and dignity"),
- the George's Quay LAP 2012 which was extended to 2022 in July 2017
- the site's location within the "Tara Street key site", which is one of three 'key' sites within the area of the George's Quay Local Area Plan, 2012,
- the existing character and pattern of development in the area and the city centre location of the site together with its proximity to public transportation infrastructure,
- plans and details included with the application

- the layout, form, mass, height, materials, finishes, design detail, and the public realm provision and enhancements,

It is considered that, subject to compliance with the conditions set out below, the proposed development would be in accordance with the proper planning and sustainable development of the area.

**Appropriate Assessment Screening:**

The Board completed an Appropriate Assessment Screening exercise in relation to the potential effects of the proposed development on designated European Sites, taking into account the nature, scale and location of the proposed development (being a redevelopment of land within a zoned and serviced urban area), the Appropriate Assessment Screening Report submitted with the application and the Inspector's report and submissions on file. In completing the screening exercise, the Board adopted the report of the Inspector and concluded that, by itself or in combination with other development in the vicinity, the proposed development would not be likely to have a significant effect on any European Site in view of the sites' conservation objectives, and that a Stage 2 Appropriate Assessment is not, therefore, required.

The Board in reaching its conclusion noted the content of the AA screening report at page 17 that "During the demolition and construction phase some sediment will enter watercourses, entrained in rain run-off. However this is not considered significant given the temporary nature of this phase and given that large quantities of sediment are deposited in estuaries as part of their natural functioning.

The Board does not agree with the statement of the inspector that. "*Subject to the implementation of the proposed mitigation measures, I accept that the potential for significant effects on the integrity of any Natura site, or, its special conservation interests are not likely*". No significant effect on any European Site is identified and also the measures incorporated into the Environmental Management Plan are not the type of measures identified in "People Over Wind".

#### **Environmental Impact Assessment:**

The Board completed in compliance with s.172 of the Planning and Development Act 2000 an environmental impact assessment of the proposed development, taking into account:

- (a) the nature, scale, location and extent of the proposed development at Tara House 2-16 Tara Street, Dublin 2
- (b) the Environmental Impact Assessment Report and associated documentation submitted with the application,

- (c) the submissions from the planning authority, the observers and the prescribed bodies in the course of the application,
- (d) the Inspector's report.

The Board considered that the Environmental Impact Assessment Report, supported by the documentation submitted by the applicant, identifies and describes adequately the direct, indirect and cumulative effects of the proposed development on the environment. The Board is satisfied that the information contained in the EIAR complies with the provisions of EU Directive 2014/52/EU amending Directive 2011/92/EU.

The Board agreed with the summary and examination, set out in the Inspector's report, of the information contained in the Environmental Impact Assessment Report and associated documentation submitted by the applicant and submissions made in the course of the application with the exception of the matters specified below.

The Board completed an environmental impact assessment in relation to the proposed development and concluded that subject to the implementation of the mitigation measures proposed, as set out in Volume 1 Section 14 of the EIAR "Summary of Mitigation and Monitoring Measures", and subject to compliance with the conditions set out herein, the effects on the environment of the proposed development by itself and cumulatively with other development in the vicinity would be acceptable. In doing so, the Board adopted the report and conclusions of the Inspector, with the exception of the Inspector's conclusion with regard to Material Assets: Townscape and Landscape, (Section, 8.16.12 p76 of the Inspector's report).

In deciding not to accept the inspector's conclusion in relation to material assets, townscape and landscape, the Board considered that the proposed development

- would integrate satisfactorily with the surrounding existing development and with the established character of the historic city centre, including the Custom House and including views and prospects towards the site along the River Liffey Conservation Area, College Green, the grounds of Trinity College and the North Dublin Georgian Quarter, and would not have a significant and detrimental impact

on any important views and vistas within the city including in particular from College Green, and the Trinity College Campus, Lord Edward Street, the Five Lamps, Granby Row, Frederick Street North, Parnell Street North, Henrietta Street, Kildare Street or Harcourt Street

- would enhance the skyline of the George's Quay / Tara Street area of the inner city
- would make a positive contribution to the urban character of the area
- would not conflict with Policy SC7 or Policy SC17, as set out in the Dublin City Development Plan 2016-22 which seek to protect important views and view corridors and to protect and enhance the skyline of the inner city and to ensure that all proposals for mid-rise and taller buildings make a positive contribution to the urban character of the inner city, and
- would not seriously injure the amenities of development in the area and the character and appearance of Protected Structures and Architectural Conservation Areas by reason of overbearing impact, overlooking or overshadowing.
- would have an acceptable and appropriate slenderness ratio which will enhance the visual impact of the proposed development from important vantage points within the city, having regard to its scale, design and mass

The Board, therefore, concluded that proposed development would have a significant positive visual impact and enhance the urban character and visual amenities of the historic city core.

### **Reasoned Conclusions on the Significant Effects.**

The Board considered that the main significant direct and indirect effects of the proposed development on the environment are, and will be mitigated as follows:

- Noise, dust, traffic, excavation, demolition, piling impacts during construction and demolition which will be mitigated by a Construction Management Plan including traffic management measures
- Architectural, visual and cultural heritage impacts, for which there is no mitigation measures proposed on the basis of the beneficial and/or positive impacts.

- Construction impacts on the adjoining Protected Structure (Kennedy's Public House) which shall be mitigated by monitoring by an independent expert during the construction period to ensure no vertical or horizontal movement occurs during the works.
- Archaeology impacts which will be mitigated by archaeological monitoring.
- Biodiversity impacts related to the disturbance of bird nests at the site which will be mitigated by the inspection for nests in the first instance followed by avoidance of works during the nesting season if evidence of existing nests. Any disturbance of nests will be subject to licensing by the NPWS, where appropriate. Furthermore, net cloaking during construction to exclude nesting will be employed if necessary.

The Board is satisfied that this reasoned conclusion is up to date at the time of taking this decision.

### **Conclusions on Proper Planning and Sustainable Development:**

It is considered that, subject to compliance with the conditions set out below the proposed development would:

- secure the redevelopment of underutilised urban land in a prime city centre location strategically positioned beside a major transport node,
- would be consistent with national and local policy measures and guidance which seeks to secure more compact and higher density development in city centre areas,
- would be consistent with the overall aims of the George's Quay LAP 2012, which identifies the site as a location for a building of up to 88m (22 storeys) in height,
- would integrate satisfactorily with the surrounding existing development and with the established character of the sensitive historic city centre, including

the Custom House and including views and prospects towards the site along the River Liffey Conservation Area, College Green, the grounds of Trinity College and the North Dublin Georgian Quarter,

- would enhance the skyline of the George's Quay / Tara Street area of the inner city,
- would make a positive contribution to the urban character of the area
- would not conflict with Policy SC7 or Policy SC17, as set out in the Dublin City Development Plan 2016-22 which seek to protect important views and view corridors and to protect and enhance the skyline of the inner city and to ensure that all proposals for mid-rise and taller buildings make a positive contribution to the urban character of the inner city,
- would not seriously injure the amenities of development in the area and the character and appearance of Protected Structures and Architectural Conservation Areas by reason of overbearing impact, overlooking or overshadowing,
- would not have a significant and detrimental impact on any important views and vistas within the city, including in particular from College Green, and the Trinity College Campus, Lord Edward Street, the Five Lamps, Granby Row, Frederick Street North, Parnell Street North, Henrietta Street, Kildare Street or Harcourt Street,
- would be acceptable in terms of public and private transport and pedestrian safety and convenience.

The Board concluded that the proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

In deciding not to accept the Inspector's recommendation to refuse permission, the Board considered that the proposed development would not seriously detract from the setting and character of the Custom House and would not adversely affect the River Liffey Conservation Area or the O'Connell Street and Environs Architectural Conservation Area. Furthermore, the proposal, would not have a significant and negative impact on a number of important views and vistas in the city including from College Green, and the Trinity College Campus, as well as Lord Edward Street, the Five Lamps, Grandy Row, Frederick Street North, Parnell Street North, Henrietta

Street, Kildare Street and Harcourt Street. The Board considered that on the contrary the proposed development would have a positive visual impact and that the proposed revisions and refinements to the previous proposal had overcome the concerns regarding the visual impact of the previous proposal. The Board concluded that proposed development would, therefore, enhance the urban character and visual amenities of the historic city core and would be in accordance with the proper planning and sustainable development of the area.

## **Conditions**

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, 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. Mitigation and monitoring measures outlined in the plans and particulars, including the Environmental Impact Assessment Report submitted with this application as set out in in Volume 1 Section 14 of the EIAR “Summary of Mitigation and Monitoring Measures”, shall be carried out in full, except where otherwise required by conditions attached to this permission.

**Reason:** In the interest of protecting the environment and in the interest of public health.

- 3 Details of the materials, colours and textures of all the external finishes to the proposed buildings shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The proposed colour on the café buildings flanking Kennedy’s Public House shall be altered to be a buff, rather than light red, colour.

**Reason:** In the interest of the visual amenities of the area.



4. The following requirements of the planning authority shall be submitted to and agreed in writing by the Planning Authority prior to the commencement of development.

(a) details of the proposed loading bay on Poolbeg Street shall be submitted to and agreed in writing with the planning authority. The provision of the loading bay and any other proposed alterations to the road network shall be to the planning authority requirements and at the developer's expense.

(b) The developer shall undertake to implement the measures outlined in the Mobility Management Framework/Plan and to ensure that future tenants of the proposed development comply with this strategy. A Mobility Manager for the overall scheme shall be appointed to oversee and co-ordinate the preparation of individual plans.

(c) Details of the materials proposed in public areas is required and shall be in accordance with the document entitled "Construction Standards for Roads and Street Works in Dublin City Council" and agreed in detail with the planning authority prior to commencement of development.

All costs incurred by the planning authority, 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 clarity, and traffic safety and convenience.

5. Noise and Dust monitoring locations which shall include at least one station to the rear elevation of Kennedy's Public House, for the purposes of the construction phase of the proposed development shall be agreed in writing with the planning authority prior to commencement of development.

**Reason:** To protect the amenities of property in the vicinity.

6. Aeronautical obstacle lighting in accordance with the specification contained in the International Civil Aviation Organisation's publication entitled Annex 14, Volume 1, "Aerodromes", shall be erected on the structure. The light shall be

erected as close as practicable to the highest point on the structure and shall be visible from 360 degrees in azimuth.

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

7. The developer shall facilitate the archaeological appraisal of the site and shall provide for the preservation, recording and protection of archaeological materials or features which 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, and,
  - (b) employ a suitably-qualified archaeologist prior to the demolition works and commencement of development. The archaeologist shall assess the site and monitor all site development works.

The assessment shall address the following issues:

- (i) the nature and location of archaeological material on the site, and
- (ii) the impact of the proposed development on such archaeological material.

A report, containing the results of the assessment, shall be submitted to the planning authority and, arising from this assessment, the developer shall agree in writing with the planning authority details regarding any further archaeological requirements (including, if necessary, archaeological excavation) prior to commencement of construction works.

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 area and to secure the preservation (in-situ or by record) and protection of any archaeological remains that may exist within the site.

8. Drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services. The requirements for the management of storm water shall include the incorporation of Sustainable Urban Drainage systems (SUDs) and implementation of the proposed arrangements in the Flood Risk Assessment submitted to the planning authority with the application.

**Reason:** To ensure adequate servicing of the development and to prevent pollution.

- 9 (1) Public lighting shall be provided in accordance with the scheme submitted to the planning authority. All pedestrian routes shall be lit and shall be open to public access at all times. All ground floor uses within the overall development shall be open to the public and open spaces shall not be gated.

(2) Any proposals for the lighting of the building at night shall be submitted to and agreed in by the planning authority writing prior to commencement of development.

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

10. No additional development shall take place above roof parapet level, including lift motor enclosures, air handling equipment, storage tanks, ducts or other external plant, telecommunication aerials, antennas or equipment, other than that shown on drawings as submitted to the Planning Authority with the application.

**Reason:** To protect the residential amenities of property in the vicinity and the visual amenities of the area.

11. Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of

development. This plan shall be prepared in accordance with the “Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects”, published by the Department of the Environment, Heritage and Local Government in July 2006. The plan shall include details of waste to be generated during site clearance and construction phases, and details of the methods and locations to be employed for the prevention, minimisation, recovery and disposal of this material in accordance with the provision of the Waste Management Plan for the Region in which the site is situated.

**Reason:** In the interest of sustainable waste management.

12. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including noise management measures.

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

13. Site development and construction works shall be confined to the hours of 0700 and 1800 on Mondays to Fridays excluding bank holidays and 0800 and 1400 hours on Saturdays and not at all on Sundays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

**Reason:** In the interest of residential amenity and clarity.

14. Notwithstanding the provisions of the Planning and 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 a prior grant of planning permission.

**Reason:** In the interest of the visual amenities of the area.

15. 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, as amended. The contribution shall be paid prior to 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 An Bord Pleanála to determine the proper application of the terms of the Scheme.

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

16. The developer shall pay to the planning authority a financial contribution in respect of the LUAS Docklands Line C1 Scheme, 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, as amended. The contribution shall be paid prior to 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, as amended, 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.

**Board Member**

**Date:** 21/03/2019

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Paul Hyde