

An
Coimisiún
Pleanála

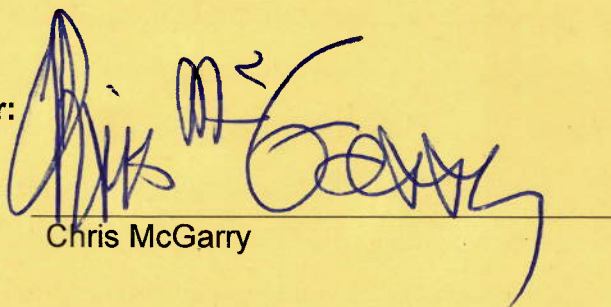
Direction
CD-022303-26
ACP-324028-26

The submissions on this file and the Inspectors' reports dated 12/10/2023, 08/03/2024 and 03/06/2026 were considered at meetings held on the 22/06/2026 and the 29/06/2026.

The Commission decided to refuse permission by a majority of 6:1 for the following reasons and considerations.

Planning

Commissioner:


Chris McGarry

Date: 10/07/2026

DRAFT WORDING FOR ORDER

Reasons and Considerations

1. Having regard to the prominent and sensitive location of the subject site by reason of its important location within the historic city core fronting onto the River Liffey, its proximity to protected structures (No.9 City Quay, Presbytery and Nos.10-12 City Quay, Church of the Immaculate Heart of Mary) and to the Custom House and having regard to Policies SC16, SC17 and SC18 of

the Dublin City Development Plan 2022-2028 which seek to protect and enhance the skyline of the inner city, and to ensure that all proposals for taller buildings demonstrate sensitivity to the historic city centre, to the provisions of section 13.8 'SDRA 6 – Docklands' of the Dublin City Development Plan 2022-2028, which notes that *'general height guidance is provided for selected key development sites in the SDRA, informed by urban design principles responsive to context'* and *'in some more locations where the planning context is suitable, locally higher buildings of greater height and landmark buildings can be appropriate and positions for these buildings are clearly described for key sites'* and that *'all new development of increased height compared to the existing context must accord with the specific performance criteria as set out in Appendix 3 of this development plan'*, and including Figure 13.6 which gives spatial representation to the SDRA 6 guiding principles, (from which a proposal for a landmark building on the subject site while not specifically identified, would not automatically be precluded), to the provisions of Appendix 3 '*Height Strategy*' of the Dublin City Development Plan 2022-2028, with particular reference to Tables 3 and 4 and to accompanying text on pages 236-237 which lists criteria all of which must be demonstrated to allow for a landmark/tall building to be considered favourably (outside of locations specifically identified as being suitable in the development plan or in LAPs/SDZs), which include that the building, will emphasise a point of particular civic or visual significance... will act as a strategic intervention, a catalyst for regeneration... will bring significant planning gain to the community, including measures such as substantial upgrades to the public realm, significant new social and community infrastructure for the benefit of the wider area, it is considered that the proposed development would not be in accordance with the relevant provisions of the development plan, which are considered reasonable, having regard to its scale, bulk, mass and height on this modest site.

Specifically, having regard to the nature of public realm proposed within the red line application site (offering little more than regrading and modest expansion of elements of existing footpath and an area to the front of the building/partly underneath the upper floors overhang, which is shown in the

application documentation, including the pedestrian realm people flow study, to act substantially as a contributor to the means of entrance and egress from the building), and which therefore could not be determined as providing a substantial upgrade to the public realm or environmental enhancement including open space within any reasonable interpretation of the exceptional circumstance mandate for a landmark building, as described at Appendix 3; and to the fact that the site is not considered to denote a point of particular civic (such as a public transport interchange) or visual significance, it is considered that the proposed development, itself and by the precedent it would set, would fail to achieve the relevant performance criteria for Enhanced Height, Density and Scale as set out in Table 3 (specifically to provide well connected, high quality and active public and communal spaces, to protect historic environments from insensitive development), the relevant performance criteria for Landmark Tall Buildings as set out in Table 4 (specifically public realm, impacts on historic context, tall building clusters), and the exceptional case criteria, all of which must be demonstrated, (specifically, emphasise a point of particular civic or visual significance, act as a strategic intervention/a catalyst for regeneration, bring significant planning gain to the community, including substantial upgrades to public realm) at Appendix 3 of the development plan. The proposed development would undermine the purpose and intent of those provisions of the development plan.

On the specific matter of whether or not the proposed development ought to be assessed as part of a building height cluster, the Commission noted and considered the comments by the applicant (Tall Building Statement June 2021 as submitted) including that the proposed development *'is designed to be part of the wider cluster of taller buildings in the St George's Quay grouping', '... the new Hawkins Street buildings, the approved Tara Street building and City Quay, all three of approximately the same height', and 'it enhances the emerging cluster of buildings in George's Quay by completing the distinctive character of this cluster of existing and approved buildings'*. The Commission also considered objective 7 (tall building clusters) of Table 4 (Appendix 3) of the development plan. This objective states that *'where clusters of*

landmark/tall buildings are proposed, careful attention must be paid to the roof profile in the context of the whole cluster. Clusters of such towers should be composed with the tallest at the centre of the group, falling away to the edges'. From a reading of objective 7 and on the facts of the case as p[re]sented in the application and appeal documentation, the Commission determined that there is no specific policy context which identifies this site as rationally forming part of an overall cluster. The Commission did not agree with the applicant's commentary that the proposed development is approximately the same height as the two other buildings claimed to constitute a part of a cluster to which the applicant seeks to add this proposal. The proposed development is some 20 metres higher than both the Tara Street tower, which was specifically identified in a plan-led exercise (George's Quay Local Area Plan 2012, as extended) as a location for a landmark/tall building, and the tower at Hawkins Street. Furthermore the proposed development is considerably more massive and bulky in form than either of those two other referenced buildings, incorporates a roof profile that bears no relationship to those of the other two buildings and is sited at a distant edge of any reasonable understanding of this cluster (if it is to be designated as such) and is much taller therefore than the building at the centre of the group, in this instance the Tara Street building. It is considered that the proposed development would fail to accord with the above-mentioned Objective 7 and would by itself and by the precedent it would set, undermine the purpose and intent of that objective.

In reaching its determination, the Commission also considered the content of the "Urban Development and Building Height Guidelines for Planning Authorities" issued by the Department of Housing, Planning and Local Government in 2018, and the consideration of these Guidelines both by the applicant in the submitted documentation and by the Inspector in her original report and in the subsequent Inspectors' report as appropriate. The Commission noted that the 2018 Guidelines record the following as a development management principle; *'is the proposal in line with the requirements of the development plan in force and which plan has taken clear account of the requirements set out in Chapter 2 of these guidelines?'* The

2022-2028 Dublin City Development Plan has taken clear account of these requirements and for this reason the determination of the Commission is firmly focused on the alignment (or otherwise) of the proposed development with the relevant provisions of the development plan. In addition, the Commission also considered the principles set out in Chapter 3 of the Building Height Guidelines and determined that the proposed development would fail to accord with these principles, with particular reference to, public realm, contribution to place making and urban design context for public spaces.

In summary, the Commission considered that the proposed building by reason of overall design, height, form and layout at this subject site, does not have the benefit of a supportable policy context, by reference to the totality of the relevant height provisions in the Dublin City Development Plan 2022-2028 nor by reference to the 2018 Ministerial Guidelines and would fail to adequately address the sensitive location, resulting in a negative impact on important views and vistas and would stand apart as an overly assertive solo building which would not form part of a coherent cluster, or if considered as joining a cluster would constitute a discordant element of it, contrary to the spirit and intent of the relevant development plan policy. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

2. Taking into account, the overall design, including height, scale, mass, form of the proposed building and with particular consideration of the positioning of the building along the eastern site boundary, and the impacts on the surrounding receiving urban environment, it is considered the scheme is likely to have noticeable and detrimental overbearing impacts on neighbouring property. The application documentation indicates a proposed building of overwhelming scale on this specific site, that will have an overbearing impact on the surrounding environment, including the Protected Structures No.9 City Quay, Presbytery and Nos.10-12 City Quay, Church of the Immaculate Heart of Mary, the public space to the front, the nearby school and associated grounds and the public space to the front of the adjacent office building, due to the height, scale, mass and positioning of the building directly abutting the

eastern site boundary. The proposed development would therefore constitute an overdevelopment of the subject site, would seriously injure the amenities of neighbouring property by reason of overbearance and would create a precedent for similar type undesirable development and would be contrary to the proper planning and sustainable development of the area.

In reaching its decision the Commission completed an environmental impact assessment of the proposed development, taking into account:

- (a) The nature, scale, location and extent of the proposed development.
- (b) The environmental impact assessment report and associated documentation. submitted with the application.
- (c) The submissions from the planning authority, applicant, third parties and prescribed bodies in the course of the application; and
- (d) The reports of the Planning Inspectors.

The Commission considered that the Environmental Impact Assessment Report, supported by the documentation submitted by the applicant, adequately identifies and describes the direct, indirect, secondary and cumulative effects of the proposed development on the environment. The Commission is satisfied that the information contained in the Environmental Impact Assessment Report is up to date and complies with the provisions of EU Directive 2014/52/EU amending Directive 2011/92/EU. Having regard to the examination of environmental information contained above, and in particular in the EIAR and supplementary information provided by the applicant, and the submissions from the planning authority, prescribed bodies and the third party appellants, the Commission considered and agreed with the Planning Inspector's **reasoned conclusions**, as set out in the report dated 12/10/2023 and as referenced in the Inspector's report dated 03/06/2026, with the exception of archaeology and cultural heritage and landscape and visual impacts (which are deemed not acceptable for the reasoned conclusions set out below) that the main significant direct and indirect effects of the proposed development on the environment are:

Material Assets – Archaeology and cultural heritage –With the implementation of mitigation, comprising archaeological monitoring and investigation/protection, no

residual impact on archaeological heritage is anticipated to result. There is no negative impact caused by the removal of the historic derelict buildings due to the creation of a detailed record prior to their demolition. There will be significant permanent negative effects upon the architectural heritage during the operation of the development, due to the visibility of the proposed tower, in particular by reason of overbearance on immediately adjoining properties to the east including protected structures (No.9 City Quay, Presbytery and Nos.10-12 City Quay, Church of the Immaculate Heart of Mary).

Landscape and visual impacts – There is no mitigation proposed beyond that already embedded in the design and high-quality architectural finish proposed. A significant negative permanent impact is identified from the visual impact caused by the proposed development with particular reference to the impact of the building as viewed from the east on the sensitive location and associated views and vistas, and with the significant overbearance of the proposed development on immediately adjoining property to the east of the subject site, with short-term temporary negative impact predicted during the construction phase only, which is consistent with the impact resulting from any development site in an urban area. The proposed development will result in significant negative impact upon the visual and townscape character of the area.

In deciding not to accept the Inspectors' recommendations to grant permission, the Commission noted and acknowledged the detailed assessment undertaken by the Inspector in her report of 12/10/2023 (as reaffirmed in her report of 08/03/2024 and as referenced and engaged with by the second Inspector in her report of 03/06/2026), with respect to the relevant height provisions of the Dublin City Development Plan 2022-2028. However on the facts of the case, while the Commission agreed that the relevant provisions of the development plan including Figure 13-6 of the Plan do not preclude a landmark/tall building at this site, it did not share the view of the Inspector on a number of matters including her commentary that, *'the subject site is also proximate to tall buildings approved and under construction (at Tara Street and Apollo) and these buildings would combine, to form a memorable reference point for the city centre and the area of the Tara Street Station'*.

The Commission considered that a full interrogation of the development plan's planned focus on identification for landmark/tall buildings (with exceptional circumstances which might be considered case by case) along with the specific form of this building, would not support the current building form on this subject site, for the reasons as set out above in the reasons for refusal.

The Commission also noted and did not agree with the Inspector that *'the proposed building significantly improves upon the current setting of Moss Street and Gloucester Street South'*. The Commission determined that this argument does not stand up to scrutiny as it is considered that the proposed development delivers little in terms of public realm. It proposes primarily a building form to a footpath edge, which of itself can be acceptable in context and design terms, and an area which is to the front of the main entrance, but is not considered to enable the exceptional circumstance derogation for a landmark/tall building to be deployed in this instance. A building to a scale comparable with those in the immediate area (say 6-8 storeys) or indeed, subject to design quality, a locally higher building, would likely be expected to deliver no less than that put forward in the current application in terms of public realm and street setting as part of any reasonable consideration of proper planning and sustainable development.

The Commission also noted the Inspector's assessment of the proposed development in the context of the Urban Development and Building Heights, Guidelines for Planning Authorities, 2018 (pages 47-56 of Inspector's report 12/10/2023 refers). In this context, the Commission considered SPPR 1 of the 2018 Guidelines (contained within Chapter 2), which states as follows, *'planning authorities shall explicitly identify, through their statutory plans, areas where increased building height will be actively pursued for both redevelopment, regeneration and infill development to secure the objectives of the National Planning Framework and Regional Spatial and Economic Strategies and shall not provide for blanket numerical limitations on building height'*.

This SPPR has been complied with by Dublin City Council in its adoption of the relevant provisions on height now contained in the Dublin City Development Plan

2022-2028. Furthermore, section 3.1 of the 2018 Guidelines state that planning authorities must apply as a development management principle *'is the proposal in line with the requirements of the development plan in force and which plan has taken clear account of the requirements set out in Chapter 2 of these guidelines?'* The 2022-2028 Dublin City Development Plan has taken clear account of these Chapter 2 requirements. The 2018 Guidelines therefore require that consideration of whether or not a proposal is in line with the relevant height provisions of the Dublin City Development Plan 2022-2028, is central to a determination in this case. The conclusion of the Commission on this matter has been clearly articulated in its decision to refuse permission.

With respect to the provisions of section 3.2 of the 2018 Guidelines, (development management criteria), the Commission considered the assessment of these by the Inspector. Firstly, the Commission notes that the assessment of the proposed development by the Inspector in the context of the 2018 Guidelines, interweaves considerably with the language and content of the subsequent development plan. This approach is logical and indeed inevitable; it reflects the policy context wherein the underpinning purpose of the 2018 Guidelines (especially via SPPR1 and section 3.1) is to embed a durable form of height policy within subsequent development plans and an approach to development management which requires consideration of the alignment or otherwise of the height issue, through the prism of the subsequently adopted development plan.

While some of the arguments of the Inspector are noted and accepted, such as confirming the site is well served by public transport, and issues entailing specific assessments such as daylight/sunlight, the Commission disagreed with the assessment of the Inspector on the fundamental matters of;

- *enhancing the character and public realm of the area.* On the facts of the case, no material enhancement is considered to arise within the application red line, from the proposed development in its specific design form. Furthermore, the scale and mass of the proposed building, and its footprint and positioning on site, including along the eastern boundary, renders the proposed development overbearing in its context with adverse impacts on

surrounding properties and the character of the area. In this regard the Commission noted the commentary of the inspector in her report dated 12/10/2023, that *'constraining scale in the city on the basis of existing adjacent buildings alone could stymie development in the city. The proposed development would be prominent, but this prominence is not overbearing or overwhelming'* (paragraph 7.6.32 refers). The Commission agreed with the inspector on the first comment (constraining scale could stymie development), though this is considered to be general in substance and application.

However from a full examination of the facts of the case, including the plans and particulars which show a building rising some 104.8 metres above the ground level of the adjoining school playground area, directly on the site boundary for some 25.3 metres, with the remaining 79.5 metres, set back just over 3 metres from the boundary, though with an acknowledged reduced lateral extent of the building footprint from eighth floor upwards (Drawing No. 2106-MA-01-ZZ-DR-A-0311, 'Section B-B' and the respective floor plans as lodged with the application refer), the Commission determined that the proposed building at this location would be definitively overbearing on the immediately adjoining sites and could not reasonably be described simply as prominent. In effect, it constitutes a significant overdevelopment of the site and this is clearly expressed in reason number 2 for refusal;

- *positive contribution to the improvement of legibility through the site or wider urban area.* The proposed development does not denote a specific destination such as a major public interchange – in contrast to the Tara Street tower which actually sits at the location of an interchange and received a planned policy support in that context under the now expired Local Area Plan and with a reaffirmation of its landmark status in the current development plan. Nor does the proposed development enhance the design context for public spaces and key thoroughfares. The Commission considered that the overall design, including, height, scale, form and massing of the proposed development, particularly as seen from the east, would seriously injure the amenities of neighbouring property and would create a precedent for similar type undesirable development and would fail to adequately address the

sensitive location, resulting in a negative impact on important views and vistas.

- *Cluster.* The Commission considered the assessment of the proposed development by the Inspector within the context of a cluster (page 53). The Commission completed an assessment of the proposed development by reference to relevant development plan policy on clusters and also on the facts of the case, including the relative positioning of the proposed building to two other referenced tall buildings in the wider environs, and with consideration of the overall design, including, height, scale, form and massing of the proposed development in comparison to those two buildings. The Commission also noted that the 2018 Guidelines firmly place the concept of a tall building cluster within the context of plan-led height policy (paragraph 2.11, *'Locations with the potential for comprehensive urban development or redevelopment (e.g. brownfield former industrial districts, dockland locations, low density urban shopping centres etc) should be identified where, for example, a cluster of higher buildings can be accommodated as a new neighbourhood or urban district or precinct. Such areas, particularly those in excess of 2 ha (approx. 5 acres) in area, should be accompanied by appropriate master-planning exercises and local planning frameworks to deal with movement, public realm, design and other issues that are best addressed at a neighbourhood level rather than at an individual site scale.'*). In contrast to the assessment of the Inspector, the Commission determined on the facts of the case, by reference to development plan policy and to the content of the 2018 Ministerial Guidelines, and as set out in reason number 1 for refusal, that the proposed development does not warrant an exceptional circumstance on the basis of any policy context in support of clusters.

In conclusion, the Commission disagreed with the commentary by the Inspector in respect of the proposed development's ability to achieve the Performance Criteria for Enhanced Height, Density and Scale and also Landmark Tall Buildings as set out in Tables 3 and 4 of Appendix 3 of the Dublin City Development Plan 2022-2028 (and the subsequent criteria set out as bullet points at page 236-237 of the development plan (Appendix 3), and by reference to the relevant provisions of the Urban Development and Building Heights, Guidelines for Planning Authorities, 2018. The Commission considered that the development as proposed would fail to demonstrate sensitivity to the historic core fronting on to the River Liffey and would also visually intrude on important vistas, as evident in the photomontages submitted, particularly when viewed from the east (for example view 45 of the Verified Photomontages, as submitted with the appeal documentation). The Commission noted the commentary of the Inspector with regard to impact or otherwise on the Custom House. On this point the Commission determined that an impact on the Custom House was not in fact central to the reasons for refusal and the fact of visibility of a tall building at this site within the wider cityscape incorporating the Custom House, was not of itself a reason for refusal. The Commission also noted, agreed and accepted the assessment of the inspector with regard to Appropriate Assessment and determined that it has been established beyond scientific reasonable doubt that there will be no adverse effects on any European site.