

# An Bord Pleanála



## Inspector's Report

**PL 29S 245492**

**DEVELOPMENT:**

Mixed Use Office, Café Retail Restaurant Scheme in a building of varying heights of five to nine storeys over basement level with civic space, roof terraces car and cycle parking and associated site excavation and development works.

**LOCATION**

Nos. 13-18 City Quay, Dublin 2.

**PLANNING APPLICATION**

**Planning Authority:**

Dublin City Council.

**P. A. Reg. Ref:**

2407/15

**Applicant:**

Target Investment Opportunities Plc.,

**Decision:**

Grant Permission

**APPEALS**

**Appellant:**

An Taisce

**Type of Appeal:**

Third Party Against Grant of Permission

**Observers**

None

**Date of Inspection:**

20th December, 2015.

**Inspector**

Jane Dennehy.

## 1.0 SITE LOCATION AND DESCRIPTION

1.1 The site which has a stated area of 2,400 square metres is located at the corner of City Quay overlooking the River Liffey to the north and it is directly opposite the Financial Services Centre on the other side of the River Liffey. Princes Street South is to the east and the site extends as far as Gloucester Street South at the southern boundary. To the west side it is adjoined by St Mary's Church, and the associated Presbytery is located to the west side of the church facing eastwards across the church forecourt and onto the City Quay which is enclosed by gates and railings at the frontage onto City Quay and a wall along with boundary with the appeal site. To the west side of the church premises is City Quay National School the site of which also extends as far as Gloucester Street to the south.

1.2 It is a vacant brownfield site under hard standing or similar hard surfaces enclosed by boundary walls and hoarding with an entrance gate on the City Quay frontage. On the south side of Gloucester Street South with frontage along Princes' Street is a recently constructed office building. At City Quay there is a mixed use building (River House) further to the east of which is single and two storey residential development.

1.2 City Quay is one of the longer sections of the quays on the south side of the river and is at the western edge of the Docklands in which contemporary residential and commercial development has largely replaced warehousing units with some historic structures including protected structures remaining in place. The site frontage is prominent in streetscape views on approach from Custom House and on both sides of the river.

## 2. PLANNING HISTORY:

2.1 **PL 29SZ 236722/P. A. Reg. Ref. 2300/10:** The planning authority decision to refuse permission for retention for pay and display surface carpark and for permission for delineation of the carpark to provide sixty four spaces for a three year period was upheld following appeal.

## 3. DEVELOPMENT PLAN.

3.1 The operative development plan is the Dublin City Development Plan, 2011-2017 according to which the site location is within the area subject to the zoning objective: Z5: *"To consolidate and facilitate the development of the central area, and to identify, reinforce and strengthen and protect its civic design character and dignity."*

3.2 The Georges Quay area is a 'Strategic Development Regeneration Area' according to section 16.3.1. The George's Quay area is also

identified as an area with potential for building up to fifty metres in height or twelve storey office blocks and sixteen storey residential developments. These parameters are subject to the strategies and principles in the Georges Quay Local Area Plan, (GQLAP) adopted by the City Council in 2012. Objectives include strengthening and making public realm nodes through the area to include new civic spaces around City Quay Church and School; and to provide for one to two mid-rise buildings well setback from the river 6-8 storey shoulder height combined with a new public realm around the City Quay Church/School which would support the residential communities of the City Quay area,

3.3 Design and Development policy objectives and standards are set out in Chapters 16 and 17. According to section 17.4 and 17.5 the indicative plot ratios for “Z5” zones in the city centre is 2.5- 3.0 and the indicative plot ratio is 90 per cent. Principles for Building Height are set out in Section 16.4. Section 16.4.1 indicates that buildings should have a slenderness ratio of 3:1 or more and have regard to the existing urban form, scale character and heritage of the area.

3.4 The following designations are relevant to the site location.

St. Mary’ Church, belfry, boundary walls and railings (Item 1854) and presbytery are included on the record or protected structures.

Part of the site at the northern frontage comes within the River Liffey Conservation Area and the zone of archaeological potential for recorded monument DU018-020.

The quays are identified as part of the network of major strategic pedestrian routes (Figure 5)

A key view and prospect within which the appeal site is located extends east-west along the quays from vantage points to the north. The quays including the camp shires and boardwalk are identified as a key lynch pin in the inter-connected public space network within the inner city. (Figure 4)

3.5 The following policy objectives are relevant to the site location:

Policy Objective RE 22 provides for promotion and facilitation of supply of commercial retail and office space with large floorplates at appropriate locations encouraging FDI and indigenous to locate in the city.

Policy Objective FC 27 provides for the preservation of built heritage of the city that makes a positive contribution to the character, appearance and quality of local streetscapes and the sustainable development of the area.

Policy FC 41 provides for protection and conservation of special interest and character or conservation areas in the development management process.

Policy FC46 provides for the protection and enhancement of, “the important civic design character of Dublin’s Quays”.

#### **4. GEORGE’S QUAY LOCAL AREA PLAN, 2012.**

- 4.1 The site location is within the area of the George’s Quay Local Area Plan, 2012. There are four ‘character areas’. The site location is in Docklands/Mixed Use; ‘medium grained four to six storey development’.
- 4.2 The land use strategy for the Georges Quay Area is for the promotion of a mixed use character in the area to support creation of a vibrant central city district.
- 4.3 The City Quays Site, Hawkins House and Tara Street Station are designated as three distinct “Key Sites”. The application site and an adjoining site at the corner of Moss Street come within the ‘City Quay Site’. The City Quay Site comprises two sites on the west side and east side of St Mary’s Church and Presbytery and the appeal site is the site on the east side.
- 4.4 Objectives for the City Quay Site are set out in section 5.3 a copy of which is on file and it is stated that architectural quality of is of critical importance and that any tower element should have regard to the slenderness ratio of 3:1 indicated in the development plan.
- 4.5 According to Objective 1 a mix of uses is required with a minimum of twenty percent devoted to uses other than the primary use of which up to ten percent could be provided as public open space.
- 4.6 According to Objective 5 each block height

*“shall respect the quayside shoulder height of six storeys (24m) to the front of the church building line and the remaining portion of the sites have potential, subject to design amenity and visual assessments to rise to a maximum of 36 metres providing for no more than a nine storey building or a nine or ten storey residential building over commercial/leisure use at ground floor level.”*

#### **5. THE PLANNING APPLICATION.**

- 5.1 The application was originally lodged with the planning authority on 18<sup>th</sup> March, 2015 indicated proposals for a mixed use development within a five to nine storey over basement block. The proposed development consists of:

- Office at ground floor to eighth floor levels. (9,909 square metres net from a gross floor area of 11,785 square metres.)
- A café (454 square metres) with ancillary take away and outdoor seating at ground floor level.
- Two retail or restaurant units (722 square metres at ground floor level.
- A plant room (154 square metres) at eighth floor level.
- Ancillary floor areas over the ground to seventy floors to include circulation cores, plant electrical substations and switch rooms. (2,306 square metres.)
- Roof terraces to the north elevation on the fifth and sixth floor levels.
- Roof terraces at seventh floor level on the west and south elevations.
- A new civic space to the north side at City Quay.
- Car and cycle lifts at Gloucester Street south to the basement level carpark with thirty car spaces and 138 cycle spaces, a waste compound, SUDS drainage measures to include an attenuation tank and green roofs.
- Improvement works to the adjoining streets, subject to the agreement of Dublin City Council.
- Hard and soft landscaping.
- Lighting.
- Changes in levels.
- Boundary treatment.
- Foul and surface water drainage and water supply.
- All associate site excavation and above ground development works.

5.2 Included among the documentation with the application are:

- Transport Statement. (DBFL)
- An Infrastructure Design Report. (DBFL)
- A site specific Flood Risk Assessment report. (DBFL)
- Ground Investigations test report. (BHP)
- Site Investigations Report. (SIL)
- Photomontages.(Pederson Focus)
- An energy statement. (OCSE)
- A sustainability strategy. (OCSE)
- An outline construction management plan. (Bennett)
- An operational management strategy.
- An operational waste management plan. (AWN Consulting)
- An archaeological assessment report. (Irish Archaeological Consultancy)
- A conservation assessment report.
- Appropriate Assessment screening. (AWN Consulting)

5.3 The total gross floor area inclusive of the basement level is 15,479 square metres of which the total stated net floor area of which is 11,085

square metres. The floor plate ranges from nine to eighteen metres in depth. Site coverage is one hundred percent and the plot ratio is 5.6. The building mass is divided into five distinct tapered forms with angled setbacks from five to six storeys on the city frontage increasing to seven, eight and nine stories towards Gloucester Street South.

5.4 The proposed works to the public realm include tree planting, and upgrading works to footpaths, cycle ways and public lighting, pedestrian friendly crossings at Gloucester Street South close to the City National School and tree planting on Princes Street South.

#### 5.5 **Internal technical reports.**

- The report of the Environmental Health Officer indicated recommendations for the attachment of conditions of a standard nature if permission is granted.
- The report of the City Archaeologist indicates that the nature of the proposed works would preclude impact on the sub surface archaeology. A condition comprising mitigation requirements for ground works is recommended.
- The report of the Roads and Traffic Planning Division indicates satisfaction with the proposed access, parking, servicing arrangements and the proposals for the public realm. Standard conditions are recommended.
- The report of the Engineering Division indicates that the proposed drainage arrangements are satisfactory and attachment of standard conditions is recommended.
- The report of the Railway Protection Agency (TII) includes a request for attachment of a Section 49 Development Contribution condition.
- The application was not referred the internal City Architect's Department and Conservation Officer or to some of the prescribed bodies providing them with an opportunity to submit their observations and recommendations.

#### 5.6 **Further Information:**

The applicant was requested in a notification issued on 13<sup>th</sup> May, 2015:

- To reconsider the design rationale and to consider making revisions the scheme in order to reflect the opportunities and constraints of the site and to express greater clarity of form and,

- To revise the entrance arrangements in order to represent the scale of the building and to consider a double height void area.
- The planning authority also indicated concern about the visual impact of the proposed bronzed aluminium cladding panel which in part extends up to the nine storey height.

5.7 Further Information was received on 24<sup>th</sup> July, 2015 in which revisions to the design are proposed as outlined below.

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- The building design revisions indicate a different form and massing to the original proposal increasing from four to five storeys at the City Quay frontage to nine storey height further back in the site towards the Gloucester Street South where it drops back to four and five storey eight.
- Provision is made for a double height entrance with a cylindrical sliding door and foyer/reception area including a feature column at the north elevation facing over the river. The original west facing terrace at seventh floor level is omitted and replaced with a terrace to the south at fifth floor level. A sub-basement accommodates a plant relocated from the basement level which is enlarged and cycle parking is increased to 184 from 138 spaces.
- The public urban space at the City Quay frontage which is to be overlooked by the café and incorporates outdoor seating has hard and soft landscaping and a column for signage.
- The total floor area is reduced by 266 square metres arising from minor alterations throughout the building. Included with the submission is a written statement, a revised Energy statement, photomontages and a supplementary statement on conservation assessment are included in the submission.
- The facade design utilises a bronze anodised aluminium fin and transom detail and modular glazed curtain walling incorporating solar protection measures. The fin system is articulated at corners and reaches above the plant screen at the top of the building. Solid vertical bronze anodised spandrel is on the wet elevation facing towards the site of St. Mary's Church. Ground floor columns and the service areas are in a dark limestone finish.

## **6.0 DECISION OF THE PLANNING AUTHORITY.**

6.1 By Order dated, 25<sup>th</sup> August, 2015 the planning authority decided to grant permission for the proposed development subject to fourteen conditions including the following requirements:

- Condition No 4 contains a requirement for submission of a Construction management plan, a mobility management plan and details of the proposed works outside the site boundary in the public realm, for the written agreement of the planning authority.
- Condition No 5 contains a requirement for submission of details of the proposed arrangements for control of noise vibration and dust for the written agreement of the planning authority, hours of construction, and noise control.
- Condition No 11 also contains a requirement for compliance with BS 5228 with regard to the control of noise during Construction and for a “scheme for effective control of noise from the premises to be submitted for the written agreement of the planning authority.”
- Condition No 7 contains a requirement for submission of details of external finishes for the written agreement of the planning authority, for the display of samples at the site and use of materials that accord with the principles of sustainability and energy efficiency.
- Condition No 8 precludes additional development at roof level without a prior grant of planning permission.
- Condition No 12 is an archaeological monitoring condition.

## **7.0 THE APPEAL.**

7.1 An appeal was received from An Taisce on 15<sup>th</sup> September, 2015 in which it is stated that the appeal was being lodged in accordance with the provisions of Section 37 (4) of the Act, in its capacity as a prescribed body because the planning authority failed to issue notification of the application to it.

7.2 The appeal is outlined below:

- As the proposed development would have impact on the setting of St. Mary’s Church, City Quay, a protected structure, it warrants Referral to An Taisce. (Prescribed Body)
- A five to nine storey building is contrary to the provisions of the *George’s Quay Local Area Plan*.
- The proposed development would be contrary to the provisions of the Dublin City Development Plan, 2011 – 2017 *Architectural Heritage Protection: Guidelines for Planning Authorities* (owing to the relationship with the adjoining St. Mary’s Church and



- The proposed development would fail to protect the special interest of the designated Liffey Quays Conservation Area.
- Several Development Plan provisions are directly relevant to the proposed development.
- St Mary's Church is a 'landmark protected structure' which was important to the cultural identity of the Docklands as a Chapel of ease for seaman, was designed by John Bourke and dates from 1863. The church and presbytery, (protected structures) courtyard and boundary form a coherent and attractive historic group and sensitivity is required for the relationship with development on adjacent lands.
- While it is established that the Docklands can accommodate higher development density there is a sensitive immediate context to the applicant site.
- The proposed development is in conflict with the building height provisions and slenderness ratio provided for in section 5.3 of the GQLAP because the proposed nine storey element is squat and monolithic and is not slender. The vision in the LAP is for a twenty four metre high building at the front of the site with a slender tower of up to thirty six metres at the rear. The proposed development is significantly at variance with the conceptual sketch elevation shown in section 5.3 of the LAP.
- The public space is minimal relative to the size of the public space in Figures 30 and 31 provided for under (2) of section 5.3 of the GQLAP and relative to the scale and density of the proposed building. It is no more than an 'entrance forecourt' and is not a public space that would complement and augment the adjoining forecourt space at St. Mary' Church.
- The proposed development results in severe adverse effect on the immediate setting of the church and setting in views along the river Liffey. This is contrary to the Policies of the development plan and the stated aims of the LAP for the improvement of the setting.
- The largest part of the building is beside St Mary's Church and Presbytery which would be dwarfed and emasculated by the building. The proposed development would have adverse effect on the special interest of the protected structures. The contextual figure in the LAP shows the larger tower massed to the south east away from St Mary's Church and Presbytery. The overriding emphasis in the recommendations in the Guidelines is care and sensitivity adjacent to protected structures in order to preserve the integrity of the setting at close and distant views.
- The proposed development on account of scale, massing and direct proximity is in conflict with the guidelines. would be

contrary to Policy FC 41 and section 17.10.8 and the development plan would not complement and enhance the character of the conservation area and the special interest of the protected structures.

- The proposed development if permitted would set unwelcome precedent for development, such as the proposal that is overbearing adjacent to city churches. (protected structures)
- The proposed development is in conflict with development plan Policies SC 2 C7, FC 26, FC 46 and with the Assessment Criteria for High Buildings. The land use zoning requires strengthening and protection of civic design character and of key city views.
- The development is contrary to the *George's Quay Local Area Plan, 2012*, *The Dublin City Development Plan 2011-2017* and statutory guidance: *Architectural Heritage Protection: Guidelines for Planning Authorities*. It is a dense, squat and bulky form of development particularly the monolithic nine storey elevation alongside the protected structure. Development needs to integrate into the fabric and pattern of existing and likely future development at City Quay to protect its amenities. It is requested that permission be refused.

## **8. RESPONSE TO THE APPEAL BY THE PLANNING AUTHORITY.**

- 8.1 In a letter from the planning officer dated 2<sup>nd</sup> November, 2015 it is stated that the planning authority has no comments to make on the appeal.

## **9. RESPONSE TO THE APPEAL BY THE APPLICANT.**

- 9.1 A submission was received from the applicants on their own behalf on 9<sup>th</sup> October, 2015. Attached are a copy of a submission on the "City Quay Masterplan Urban Design Solution" originally made on behalf of the applicant to the City Council in February, 2015 and a copy of the conservation assessment report submitted at application stage. According to the submission the proposed development:

- fully accords with statutory policy framework and development management standards, a detailed outline of is included along with an outline of the planning background and,
- is a catalyst for further development in the George's Quay area and is in line with the policies and guidance within the George's Quay Local Area Plan. (GQLAP)

- 9.2 An outline of the points made in the submission follows:

- The scheme is designed to contribute to improvement of economic competitiveness as provided for in Policy Objective RE22 of the development plan. (Promotion and facilitation of supply of commercial retail and office space with large floorplates at appropriate locations.)
- The contention that the scheme is contrary to section 5.3 of the GQLAP and is not slender is rejected. The building height rises in height from five storeys to 35.7 metres at nine storeys and steps down to five storeys directly adjacent to the church. It rises to six storeys westwards along the Quays to Princes Street South at a maximum of twenty four metres in height. The design accords with Objective 5 and respects the quayside shoulder height of six storeys or twenty four metres and where it is forward of the church front building line.
- The GQLAP does not provide prescriptive frameworks for form, scale and appearance of the new buildings on the sites earmarked for development in the Key Site Framework Strategies. They represent a “concept” for illustrative purposes, the intention being to strategically or conceptually prescribe how the sites might appear. There is a lack of conformity between the conceptual images (in Figures 30 and 31 for example) and Objective 5 in the GQLAP.
- THE GQLAP slenderness ratio is not applicable to the site because the building is not “high rise” in the context of the development plan, definition, (in section 17.6.2 and section 17.6.3) of twelve storeys and above. The anodised aluminium fin and transom detail which rises across two floors provides a vertically articulated emphasis to the façade.
- Section 16.4.1 of the development specifically states that all “high rise” buildings must be of highest architectural quality and should aim to have a slenderness ratio of 3:1 or more and have regard to existing urban form scale and character and the built heritage of the area. The site dimensions and the height restrictions limit the ability to provide a slender tower element in the scheme. The building reaches skywards in steps from five to nine storeys and with the double height entrance accentuation. It is not in the interest of sustainable development of the strategically located site to reduce the footprint.
- The civic space is in line with: Objective 1 of the GQLAP which requires a minimum of 20 per cent of floor area devoted to uses other than primary use of which ten per cent can be allocated to new public open space.

- The civic space is in line with Objective 2 of the GQLAP in which there is no specified quantum for the civic space but which requires a setback in line with the front building line of the church providing for a feature corner to Prince's Street as required in Objective 2 of the GQLAP The space is a distinctive, high quality space for relaxation and incorporates SUDS features and enhances visual amenity and biodiversity. Biodiversity is also enhanced by tree planting on Princes Street.
- The café in accordance with Objective 3 of the GQLAP directly faces the civic space providing vibrancy and promoting security.
- A new generous footpath will animate and improve the quay front and a generous footpath also improves the public realm along with the upgraded footpath on Gloucester Street South.
- The designation of St Mary's Church, (Nos 10-12 City Quay) and the associated structures in its curtilage as a protected structure affords the necessary protection form in sensitive development. It was not located in a setting enabling it to be viewed in as a suburban or rural church. Historically the only view to the church when it was constructed was directly from the front or from the other side of the river. The church was always flanked by buildings and was setback (eighteen metres) from the Quay and this is shown in 25" OS map of 1837. Buildings were tight against the wall of the church. A 20<sup>th</sup> century building which overshadowed the forecourt and masked the oblique views replaced a prior three storey building on the appeal site.
- There is no precedent for further redevelopment against city churches as asserted in the appeal. Each is specific and different and needs assessment relative to the site contexts and policies and objectives.
- The building keeps the plot open with the civic space and building setback to match the church's building line and generous forecourt. Visually, the church will be more prominent from the City Quay and the opposite side of the river. The proposed scheme complements and improves the setting of the church.
- The church is not visible in view corridors and is fully compliant with Policy SC 7 for protection of important view and view corridors into and out of the city and for protection of city landmarks and their prominence. The building will not have adverse impact on key views of prospects as defined in Figure 4 of the development plan.
- The conservation assessment in which it is concluded that there would be no negative impact on the protected structures or the

Liffey Quays Conservation area was intrinsic to preparation of the application. There are no impacts on the Conservation Area. The City Quay frontage is the only part of the site within the designated conservation area. The front part of the building is partly similar in height to the River House on City Quay and this is appropriate. There are no adverse impacts on the Liffey Conservation Area. It is not accepted that the proposal would not complement or enhance the character of the conservation area and the proposed development is consistent with section 17.10.8 and Policy FC41 on development within conservation areas

- The character of the Liffey Quays is in transition with new build residential and commercial development alongside long vacant sites and low rise buildings. The proposed contemporary scheme is fitting for the prominent location on the Liffey Quays where the site has been derelict for many years. The height of the building at the front is similar to the existing building and appropriate for the portion of the site in the Conservation Area.

## **9. FURTHER SUBMISSION OF THE APPELLANT.**

9.1 A submission was received from the Appellant on 16<sup>th</sup> November, 2015 an outline summary of which follows:

- The appeal is warranted and it is essential to get a quality scheme as it is a significant site in the city centre with civic design and heritage sensitivities. The assertion that a speedy decision to address the undersupply of office space to augment the city's competitiveness is irrelevant
- The definition under the heading "*Definition of a High Building*" in section 17.6.2 of the development plan strongly indicates that site specific provisions in an LAP take precedence over citywide provisions of a development plan and the slenderness ratio provisions in the LAP are fully applicable to the appeal site.
- Non primary office space amounts to 1,054 square metres which is 876 square metres short of the twenty percent (1,930 square metres) required. The civic space area of 330 square metres represents 2.5% of the gross floor area. It cannot be included as it is an external space. The CGIs illustrate very limited external space which is hemmed in and made up by undercuts into the building.
- The applicant underplays the significance of the views along the River Liffey the significance of which is well established and cited in many appeal decisions. (PL 29N221587 and PL29S 222337 Parkgate Street and Bridgefoot Street refer.)

- Construction of the nine storey wall directly beside the historic church is unprecedented and would set undesirable precedent.
- The document on the City Quay Master Plan included in the further information was not mentioned in the initial planning officer report.
- The church has a typical setting for a city church in that it is set into terraced layout on City Quay and is set back from the street. In the LAP development on the appeal site is stepped away from the church and not stepped up to the church as in the proposed development. The proposed development has a very significant assertive adverse impact on St. Mary's Church and this is clearly illustrated in the photomontage from Matt Talbot Bridge. The building does not respond to the need of care and sensitivity at a location adjoining a protected structure and does not protect the special character and interest.

## 9. EVALUATION

- 9.1 The assessment is confined to consideration of the proposal in the further information submission in which the building design is radically different but the site layout, building footprint, scale, height, internal layout uses, access and services arrangements which incorporate some modifications are very similar to those in the original proposal.
- 9.2 The lodgement of the appeal in accordance with the provisions of section 37 (4) of the Act as in its capacity as a prescribed body An Taisce was not notified of the application by the planning authority is considered appropriate and acceptable. It is noted that comments and recommendations from the City Architect, the Conservation Officer and Parks were not requested at application stage and are not available.
- 9.3 The issues considered central to the appeal and to the determination of a decision which are considered below can be grouped together under the sub- headings followed by appropriate assessment screening set out below:
- Dublin City Development Plan (CDP) and George's Quay Local Area Plan (GQLAP).
  - Plot Ratio and Intensity of Development.
  - Land-use, Civic Space and Public Amenity.
  - Visual Impact and Architectural Heritage.
  - Appropriate Assessment Screening.

**9.4 Dublin City Development Plan 2011-2017 and George's Quay Local Area Plan, 2012. ( GQLAP)**

Prior to the adoption of the GQLAP the policies, objectives and standards in section 16.4.2 of the Dublin City Development Plan 2011-2017 (CDP), provided for mid-rise buildings combined with a public realm to each side of St Mary's Church, well set back from the river six storey shoulder height. Building height definitions in an LAP supersede those of the CDP. (Section 17.6 refers.) The City Quay site is one of the three Key Sites in the GQLAP for regeneration and development for which detailed design guidance, policies and objectives are provided.

9.5 While the GQLAP is a statutory LAP it is considered that the design guidance and in particular, any accompanying conceptual sketches are not strictly prescriptive but are broad parameters in which development design should be a fit. There is scope for design teams to exercise flexibility in design in drawing up development proposals subject to the achievement of high quality design standards. To this end, it is considered that provision for a tower element in the north east corner of the site is not mandatory and that the tower is included in the conceptual drawing to illustrate 'stepping up' in height southwards from the frontage on the quays and minimisation of impact on the protected structures.

**9.6 Plot Ratio and Intensity of Development.**

The observation made in the response to the appeal that while building height guidance is provided, maximum site coverage, plot ratio or site coverage details have not been included in the GQLAP is noted. It is not accepted that there is a presumption that permissible height on the site allows for higher intensity than the maximum plot ratio indicated in the CDP. Instead there is scope for higher intensity subject to quality design and satisfaction of the other criteria and standards. The plot ratio of the proposed development does exceed that indicative ratio of 2.5-3.0 in the development plan which is not strictly prescriptive. Recently permitted commercial developments within the central business district of the city subject to the "Z5" zoning objective which have been subject to appeal have higher plot ratios. (eg. Office and commercial redevelopment at 13-17 Dawson Street plot ratio at 5.7. PL 244917/P. A. Reg. Ref. 2338/15 refers.)

**9.7 Land-use, Civic Space and Public Amenity.**

It is considered that the restaurant and café use at ground floor level is an appropriate and sufficient non primary use along with the civic amenity space adjacent to and interlinked with the café having regard to the objectives with Section 5.3 of the GQLAP. It is ideal and optimal from an amenity perspective.

9.8 Although the civic amenity space is very limited in size accords with the parameters in section 5.3 of the GQLAP it is optimally located and

designed in terms of public amenity potential, the integration with the building and its future occupants and it incorporates SUDS features. The potential future public benefit of the proposals for public realm improvements incorporating improved pedestrian facilities, landscaping and tree planting along the street network is also acknowledged.

#### **9.9 Visual Impact and Architectural Heritage.**

In addition to assessment with regard to the GQLAP, (in particular section 5.3) the impacts of the proposed development on St Mary's Church and Presbytery which are protected structures, on the River Liffey Conservation Area and, on the protected views and prospects are central to the determination of the decision and there is overlap between these issues.

- 9.10 The boundary between the appeal site and the adjoining site of St Mary's Church and Presbytery appears to have been unchanged since the nineteenth century according to the OSI historic maps and, possibly an earlier date. The applicant has provided photographic evidence of a former building resembling an industrial warehouse possibly connected with the docks which has a footprint adjacent to the site boundary. It is accepted that there is some historical precedent for the absence of separation distance between building footprint and the boundary.
- 9.11 Nevertheless the proposed building is a large contemporary structure stepping up in height from the frontage onto the Quays to thirty six metres at its highest and this is consistent with the heights provided for in the GQLAP. (Section 5.3) The setback relative to the front building line of St. Mary's Church, the stepping up of the heights and the proximity to the side boundary which follows that of the former building are considered appropriate for the site location. In views from positions in close proximity in front or slightly to either side of the site the height is acceptable due to the setbacks from the site frontage. However in views directly from various vantage points along the north side of the Quays and bridges over the river, the context of the church is adversely impacted on by the height and a more open view of the sky as a backdrop is required. This may explain, the rationale for a tower element towards the eastern side of the site illustrated in the contextual drawings provided in GQLAP (Section 5.3)
- 9.12 It is considered that a sufficient, open sky backdrop can be achieved by omission of three "bays" at levels 7, 8 and 9 on the western side of the building. It is noted from the lodged plans that this area is in part allocated as a roofless plant and equipment space. The applicant may consider it necessary to draw up new proposals for the plant and equipment housing if this area is omitted. In addition, if applied, this recommended modification would also reduce the width of the top level of the building bringing it a little closer in form to the tower element illustrated in the contextual drawings in the GQLAP. It is considered that with the recommended modification in place, the quality of the



proposed building in views along the south quays would be significantly enhanced incorporating a sufficient backdrop to the sky for the church and belfry within the streetscape.

9.13 It is considered that this is the modification recommended above is the only modification to the design that is required having regard to the GQLAP and from the perspective of protection of the context and setting of the protected structures, protection of protected views, the Liffey Quays Architectural Conservation Area and visual, recreational and public amenities of the area. It is therefore recommended, if permission is granted that a condition be attached with a requirement for the omission of the three bays at the western end of the building over the three levels. The modifications may require some modification the north and west facade design incorporating the bronze anodised aluminium fin system and alterations to the plant and equipment housing. It would be appropriate for this modification to be subject, by condition, to a compliance submission and that a further planning application would not be essential.

#### 9.14 **Appropriate Assessment Screening.**

The application is accompanied by an Appropriate Assessment Screening report. The site is a brownfield site under hardstanding within the Liffey Catchment. The Lower Liffey Estuary adjoining City Quay is adjacent to the site frontage and flows in an easterly direction adjoin. The site does not come within the area of any European site.

9.15 The South Dublin Bay Special Area of Conservation (Site 0210) is within 3 km and the North Dublin Bay Special Area of Conservation (site 0206) is circa five km from the site location and the conservation objectives relate to a number of number of Annex I Habitats. The South Dublin Bay River Tolka Estuary Special Protection Area (4024) is circa one km from the site and the North Bull Island Special Protection Area (4006) is circa 3 km from the site in which the conservation objectives relate to a number of wintering and breeding bird species. Several other European sites come within a fifteen kilometre distance of the appeal site all of which are listed and along with the conservation objectives and possible source-pathway-receptor links between the European site and the appeal site.

9.16 The following bird and mammal species have been recorded within 2 km of the site: Black headed Gull, (*Larus ridibundus*), Cormorant (*Phalacrocorax carbo*) Herring Gull (*Larus argentatus*) and Otter. (*Lutra lutra*)

9.17 The appeal site is a brownfield site substantially under hardstanding and the surrounding area is that of a built environment. Measures have been drawn up to address risks of soil and groundwater contamination.

- 9.18 The source pathways receptor linkage is surface and foul water drainage between the site and the European sites. Dublin Bay is of “unpolluted” water quality status. Sustainable Urban Drainage Systems (SUDS) which will minimise run off have been incorporated in the development. At construction stage runoff at any significant rate which could occur would contain imperceptible contaminants and would occur for short periods only.
- 9.19 Wastewater is to be discharged through the public system to Ringsend Treatment Plant for treatment and disposal. The impact on the loading on which or consequent nutrients in receiving waters would be negligible and it is of note that former problems of overloading of the system have been overcome.
- 9.20 Having regard to the nature and scale of the proposed development and the characteristics of the Special Protection Areas and Special Areas of Conservation located within 15 kilometres distance of the site and to the .Appropriate Assessment Screening report submitted with the application it has been concluded on the basis of the information available that the proposed development, either individually or in combination with other plans or projects would not be likely to have a significant effect on the European sites. A Stage 2 appropriate assessment is not warranted.

## 10. **CONCLUSION AND RECOMMENDATION.**

It is recommended that the planning authority decision to grant permission be upheld, subject to inclusion of a condition with a requirement for modification to seventh- ninth levels of the building at the western end. A draft order is set out overleaf.

# DECISION

**Grant Permission on the basis of the Reasons and Considerations  
and subject to the Conditions set out below:**

## REASONS AND CONSIDERATIONS

Having regard to:

- the Dublin City Development Plan, 2011-2017 in which zoning objective for the area is ZR 5: providing for the consolidation and facilitation of the development of the central area;
- to the Georges Quay Local Area Plan in which the site is one of two sites with within the City Quay site which is one of three 'Key Sites';
- To the location of the site adjacent to St Mary's Church and Presbytery which are included on the record of protected structures, partially within the Liffey Quays Conservation Areas and protected views and prospects from the north side of the quays and bridges;
- to the form, mass, height, materials, finishes, design detail, nature and extent of uses and the public realm provision and enhancements and to the efficiency and effectiveness of the proposed services and management of energy and water supply and discharge and,
- the extent and nature of the proposed uses for the building.

It is considered that subject to compliance with the conditions set out below, the proposed development would be in accordance with the development objectives for the area, would integrate satisfactorily with the surrounding existing development including St Mary's Church and Presbytery, (protected structures), the Liffey Quays Conservation Area and the protected views and prospects from the north side of the River Liffey, would not detract from visual amenities or established character and pattern of development in the area 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 as amended by the plans and particulars submitted to the planning authority on 24<sup>th</sup> July 2015 and as amended by the further plans and particulars received by An Bord Pleanála on 22<sup>nd</sup> September, 2015 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 The building form shall be reduced in height at the western side by the equivalent of three double height fin widths on the northern façade at seventh eighth and ninth levels. Prior to the commencement the applicant shall submit for the written agreement of the planning authority, revised plan, section and elevation drawings showing the following modifications including any revisions to the internal layout and façade treatment:

**Reason:** In order to protect the backdrop and setting of St Mary's Church and presbytery, (protected structures), the architectural conservation area and the protected views to and from the site.

- 3 A panel displaying samples of the proposed materials, textures and colours of all proposed external finishes shall be displayed on site following demolition and site clearance. These details shall be agreed in writing with the planning authority prior to construction.

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

- 4 Site development and building works shall be confined to the hours of 0700 hrs and 1800 hrs on Mondays to Fridays excluding bank holidays and 0800 hrs and 1400 hrs Saturdays. 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.

5. No advertisement or advertisement structure, the exhibition or erection of which would otherwise constitute exempted development under the Planning and Development Regulations, 2001, or any statutory provision amending or replacing them, shall be displayed or erected on the building or within the curtilage of the site unless authorised by a further grant of permission.

**Reason:** In the interest of visual amenity.

6. A prior grant of planning permission for the shop fronts and signage for the proposed retail and café units shall be obtained prior to the occupation of the development.

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

- 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 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 The scheme shall be landscaped in accordance with the scheme of landscaping, submitted with the application. Details of the scheme shall include a timescale for the implementation shall be submitted to the planning authority for written agreement prior to the commencement of the development.

**Reason:** In the interest of orderly development and visual amenity.

- 9 No development other than that which is shown in the application 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, without a prior grant of planning permission.

**Reason:** In the interest of visual amenity.

- 10 The management and maintenance of the proposed development, following completion, shall be the responsibility of a legally constituted management company, which shall be established by the developer. A management scheme, providing adequate measures for the future maintenance of the development; including the external fabric of the buildings, internal common areas, landscaping, roads, paths, parking areas, public lighting, waste storage facilities and sanitary services, shall be submitted to and agreed in writing with the planning authority, before any of the commercial units are made available for occupation.

**Reason:** To provide for the future maintenance of this development in the interest of orderly development and the amenities of the area.

- 11 Drainage requirements 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 SUDS and implementation of the proposed arrangements in "Site Flood Risk Assessment. Rev A" and, submitted to the planning authority on 24<sup>th</sup> July, 2015.

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

- 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 and noise management measures.

**Reason:** In the interest of public safety and the amenities of the area.

13 Prior to the opening of the development, a Mobility Management Strategy shall be submitted to and agreed in writing with the planning authority. This shall provide for incentives to encourage the use of public transport, cycling, walking and by staff employed in the development and reduce and regulate the extent of staff parking. The mobility strategy shall be prepared and implemented by the management company for the development.

**Reason:** In the interest of the use of sustainable modes of transport.

14 A comprehensive boundary treatment and landscaping scheme shall be submitted to and agreed in writing with the planning authority, prior to the commencement of development. This scheme shall include the following:-

- (a) details of all proposed hard surface finishes, including samples of proposed paving slabs/materials for footpaths, kerbing and road surfaces within the development;
- (b) proposed locations of trees and other landscape planting in the development, including details of proposed species and settings;
- (c) details of proposed street furniture, including bollards, lighting fixtures and seating;
- (d) details of proposed boundary treatments at the perimeter of the site, including heights, materials and finishes.

The boundary treatment and landscaping shall be carried out in accordance with the agreed scheme.

**Reason:** In the interest of visual amenity.

15 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.

- 16 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 is applied to the permission.

- 17 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. 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 Supplementary Development Contribution Scheme made under section 49 of the Act be applied to the permission.

**JANE DENNEHY.**  
**Senior Planning Inspector.**  
**26<sup>th</sup> January, 2016.**