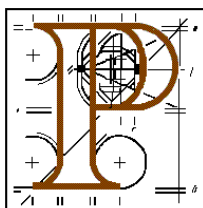


An Bord Pleanála



Inspector's Report

PL 29S 246118

DEVELOPMENT

Construction of four star 181 bedroom hotel, apartments within existing buildings, partial demolition of No 36 Charlemont Street to provide access to basement carpark, refurbishment of No 37 Charlemont Street (protected structure) including demolition of twentieth century wing, change of use from medical clinic to hotel lounge at ground floor and hotel bedrooms at first and second floors and works to protected structure include demolition of non-original bay window, removal partition walls and installation of removal partitioned walls, new ope in south east elevation, partitions, doors and window screens (to comply fire regulations) reinstatement of parapets to front and rear elevations, connection of new atrium rooflight to parapet. Demolition of buildings excluding at Nos 35 and 36 and 37 Charlemont Street Boundary treatments, landscaping site development works and ancillary services.

LOCATION

Nos 35, 36 and 37 Charlemont Street (Protected Structure) and Charlemont Mall, Dublin 2. (formerly St Ultan's Hospital and Charlemont Clinic.)

PLANNING APPLICATION

Planning Authority: Dublin City Council.
P. A. Reg. Ref: 2907/15
Applicant: Development Securities, Ltd.,
Decision: Grant Permission.

APPEALS

Third Party Appellants (1) Patrick and Alice Woods.
(2) Robert Stafford and Ciara Ryan.
First Party Appellant Development Securities, Charlemont Ltd.)
Observer Philip O'Reilly.
Inspector: Jane Dennehy.
Dates of Inspections: 11th and 16th May, 2016.

1. SITE LOCATION AND DESCRIPTION

- 1.1 The site which has a stated area of 3,850 square metres and is that of the Charlemont Clinic which was based there for circa twenty five years since the late 1980s. The site is located on the inner side of the Grand Canal on the south side of Dublin city, approximately one kilometer north of St Stephen's Green, between Charlemont Street and South Richmond Street. Charlemont LUAS stop on the Green line and a stop for the Dublin Bike Scheme are located a short distance to the north east. A cycleway and walkway adjoin the canal bank and Charlemont Mall is a one way single carriageway between Charlemont Street and Richmond Street. There is a bus routes are located along Charlemont Street and Richmond Street and Kelly's corner.
- 1.2 Nos. 35 and 36, Charlemont Street are a pair of two four storey over basement eighteenth century townhouses. No 35 is set behind original gates and railings and has a Gibbsian door case whereas the door case at No 36 has been replaced with a window. No 37 is an eighteenth century five bay detached townhouse with no basement. It is setback from the (former) main entrance off Charlemont Street. An annex, (designed by Michael Scott with possible later additions) is perpendicular to the house at the front north side. The three houses have been interlinked and altered at various times. Some joinery, mainly bannisters, some architraves staircases and flooring survive in the three eighteenth century buildings.
- 1.3 The three buildings were originally occupied as townhouses and subsequently In the nineteenth and early twentieth centuries it was occupied by two different charities and then by St. Ultan's Hospital (established 1919) and subsequently in the 1980s it was taken over and amalgamated into the site of former Charlemont Clinic. The site and the buildings have been vacant in recent years. The remainder of the buildings on the site are single, two and three storey buildings surface carparking and circulation space and soft landscaping.
- 1.4 The frontage onto Charlemont Street is confined to that of the three historic houses. No 33 Charlemont Street behind which there is an industrial structure along the entire depth of the plot adjoins the north-west boundary adjacent to No 35 Charlemont Street. The three historic houses within the site have been altered significantly over the years. Some joinery including bannisters, architraves and shutters survive. The Gibbsian door case and steps and railings have been removed at No 36 but survive at No 36.¹
- 1.5 At the northern and at the southern end of Charlemont Street on the west side there are a range of surviving some eighteenth century and

¹ A thorough and comprehensive building history, record, photographic survey and condition study for the existing buildings is in the submitted Conservation Study.

nineteenth century buildings most of which are fully or partially in retail or commercial use. The Barge public house is located at the corner of Charlemont Street and Charlemont Mall. With the exception of one house, there are five and six storey buildings on the frontage on the eastern side of Charlemont Street which are in commercial and retail use and in apartment use. A hotel is located at the southern corner overlooking the Grand Canal.

- 1.6 To the west side of the site is a residential development which is gated and includes some street frontage dwellings (Charlemont Mall). To the north west of the site between it and Tom Kelly Road to the north and north-west is the site of a major mixed use regeneration project (TK regeneration development) at which construction work was taking place at the time of inspection. (PL 29S 238212/P.A. Reg. Ref. 3742/10 refers.) Three blocks of flats are to the north west with access off Tom Kelly Road. There are also a sports facilities and service station at the western side of the appeal site.

2. PLANNING HISTORY:

- 2.1 According to the details available, there is no record of recent planning history for the appeal site. The Charlemont Clinic which was based on the site since the late 1980s.
- 2.2 **PL 29S 238212/P.A. Reg. Ref. 3742/10:** Permission was granted and upheld with revised conditions for a major mixed use regeneration development on the adjoining lands comprising two hundred and sixty residential units which is replacement housing for the existing community along with offices, retail, cinemas, restaurants, cafes and sports facilities. This development was under construction at the time of the inspection.

3. DEVELOPMENT PLAN.

- 3.1 The operative development plan is the Dublin City Development Plan, 2011-2017 according to which the site is subject to the zoning objective: Z10: *"To consolidate and facilitate the development of inner city and inner suburban sites for mixed use development of which office, retail and residential would be the predominant uses."* Details are set out in section: 15.10.10.
- 3.2 The indicative plot ratio is 2.0-3.0 and indicative site coverage is fifty percent. The zoning objective provides for a similar but not as wide a ranging mix of uses as the "Z5" zone but at less intensity.
- 3.3 Policy Objectives QH23 and QH24 provide for the promotion, improvement enhancement and a transformation of key regeneration of

a number of areas (including the adjoining lands) identified on a City Centre Regeneration Areas Map.

- 3.4 No 37 Charlemont Street is included on the record of protected structures (Ref 1374)
- 3.5 The site location with the exception of the small area at the northern side is in the area of the Grand Canal Corridor which is a Conservation Area. According to Policy FC 30 section 17.10.8 new development should not visually dominate but should enhance and complement the conservation areas. Section 17.6 requires sensitivity in the design approach for new development in historic areas including the canals.

4 THE PLANNING APPLICATION.

- 4.1 An outline of the proposed development, according to the revised proposals in the additional information submission made to the planning authority on 25th November, 2015 in response to a five item request from the planning authority is set out below.
- 4.2 The proposed development is for change of use of the lands from medical clinic to hotel use with construction of a four star five and six storey hotel development. The development incorporates and integrates with the existing eighteenth century houses at Nos. 35, 36 and 37 Charlemont Street which are to be refurbished and converted to apart hotel accommodation linked to the hotel. The twentieth century annex to the front of No 38 and the existing one, two and three storey buildings on the site (total floor area 2,067 square metres.) are to be demolished and removed.
- 4.3 **Access and Parking.** Vehicular access is off Charlemont Mall for to basement carparking, (relocated from and access ramp via No 36 Charlemont Street) with ten spaces accessed by a service lift, a services area accessed via a services lift and cycle parking (relocated from the front of No 37). The access lane which is to have a pivot gate, and high quality paving and screening along the side with upper floors of the hotel building overhead is to be a shared pedestrian and cyclist access route for the adjoining TK regeneration development.
- 4.4 The main hotel entrances are off Charlemont Mall and off Charlemont Street at No 37 both of which lead to the reception, lobby and communal area at the centre.
- 4.5 **Nos. 35, 36 and 37 (protected structure) Charlemont Street.** The original and revised proposals include demolition of the annex to the front constructed in the earlier part of the twentieth century the design of which is attributed to Michael Scott but subject to alterations and extensions including an additional floor. For the original house the proposed works include removal of non-original partitions, a non-original bay window and installation of new partitions, doors and window

screens, reinstatement of parapets and connection of a new atrium roof light.

- 4.6 The main Charlemont Street entrance lobby is to be provided at ground floor via a landscaped courtyard at the front of No 37 and there is a separate entrance at the side to the hotel bar in the new build. An atrium connected to the rear links to the main reception area which is also accessed from the hotel entrance off Charlemont Mall on the south elevation.
- 4.7 Refurbishment at No 35 and 36 Charlemont Street and change of use to storage at basement level and aparthotel accommodation on the upper floors with linkage to and full use of the main hotel facilities. Extensive internal and external refurbishment works recommended in the conservation report are included.
- 4.8 The further information submission provided an increase separation distance for between the new build from the existing historic buildings and the north boundary with the adjoining development and some design and internal layout.
- 4.9 **The Hotel Building – New Build.** The revised proposal is for a four star five and six storey over basement hotel building. The purpose of the revisions to the design are to provide for reduced height, massing and separation distances at upper levels from northern and western boundaries and from the historic buildings at Nos 35, 36 and 37 Charlemont Street. In addition to the bedroom accommodation on the upper floors, business facilities a gym/fitness suite, restaurant and bar facilities and an atrium, garden, courtyards and pedestrian route are also included at ground floor level. The restaurant overlooks Charlemont Mall and the access ale to the western side. A tree lined lane is located along the side of the northern boundary with the site of the mixed use TK regeneration development under construction to the north-west. According to the original application for the one hundred and eighty one bedroom hotel, the total stated floor area of both the new build and existing buildings to be retained in the development is 10,095 square metres exclusive of parking. The floor area and total number of rooms are marginally reduced in the further information submission. Plot ratio is stated to be 2.71 and site coverage is circa 66%.
- 4.10 There are setback fourth and fifth floor levels and reduced height screening for plant at roof level on the north elevation facing towards the TK regeneration development in which a residential block (block 3) adjoins the boundary of the site and setbacks at the western end.
- 4.11 The application is accompanied by:

Original and supplementary planning reports prepared by Simon Clear Associates,

Original and supplementary architect's report and design statement. Including shadow studies.

Original and supplementary visual impact assessment
Engineering services, report traffic report,
Landscape design report and visual studies
Conservation assessment report prepared by Lindsay
Conservation Architects,
An archaeological report in which inclusion of a monitoring
condition is recommended.
A bat survey report indicating high potential for roosts in the older
buildings due to the location close to the canal and a
recommendation for a pre works survey between mid April and
September in advance of the works to be carried out.
Building Services Solution and,
an Appropriate Assessment Screening report in which it
concluded that Stage 2 assessment is not required.

- 4.12 **An Taisce** (prescribed Body) indicates a recommendation for revisions to reduce impact on the protected structure due to scale and proximity having regard to Policy FC 30 of the Development plan regarding conservation areas.
- 4.13 **Department of Arts, Heritage and the Gaeltacht. (Architectural Advisory Unit)** in observations on the original application includes commentary on the eighteenth century architectural history of the Charlemont Street and industrial heritage of the adjoining Grand Canal. The proposed reuse of the historic buildings is welcomed but concern is expressed as to scale, visual obtrusiveness and dominance of recent large scale developments in the area and as to the suitability of further new development. The report indicates concern with regard to scale, height and finishes proposed the eighteenth century buildings and recommendations for more appropriate contextual interventions to address visual and physical impact on the historic buildings to be retained.
- 4.14 It is recommended that new build should not be visible above the ridge level of No 37 Charlemont Street the roof of which should be readable against the skyline in Charlemont Street views, a reduction by two storeys and increased in separation distance to the west. Omission of the canopy would reduce the visual clutter effect in street views is also recommended.
- 4.15 **The Conservation Officer** (City Architects Dept.) in her supplementary report of 16th January 2016 indicates satisfaction that the proposed revisions substantively address the concerns raised in the initial report issued in respect of the original application. It is recommended that conditions with a number of requirements relating to methodology for conservation works, minor revisions to provide for symmetry in the landscaping at the entrance and front facade of No 38 and the appointment of a person with specialist expertise in architectural heritage conservation to oversee the works.

- 4.16 The **City Archaeologist's** report includes a recommendation for a condition for preservation by record.
- 4.17 The **Traffic and Planning Division** report contains a detailed commentary and indicates satisfaction with the details included within the application submissions. Recommended conditions relate to service and pedestrian access relating to mobility management roads layouts etc. and standard requirements.
- 4.18 The **Environmental Health Officer** report indicates no objection subject to conditions relating to construction stage management air, noise and dust impacts, hours of construction and noise control.
- 4.19 The **Drainage Division** indicates no objection subject to conditions.
- 4.20 **Third Party Observations** were received at application stage from four parties in which concerns are expressed about:
- the adequacy of the information in the application for assessment purposes,
 - impact on the adjoining development under construction and in particular
 - Overbearing, overshadowing and overlooking on Block 3 of the residential element.
 - Blank elevations and lack of passive surveillance between Tom Kelly Road and the Canal.
 - Adverse impact on the historic area
 - Adverse impact on the setting of the three nineteenth century buildings on Charlemont Street.

5. **DECISION OF THE PLANNING AUTHORITY.**

- 5.1 By Order dated, 8th February, 2016 the planning authority decided to grant permission for the proposed development subject to conditions most of which are of a standard nature which include the following requirements:

Condition No 4: Compliance submissions for the following:

- (a) Omission of third floor level of northern block and retention of upper floor setbacks as shown in FI submission.
- (b) Use of glazing only for roofs on north and south at first floor level and rear at second floor level where new build surrounds No 38 Charlemont street.

(c) Revisions to design to the setback from the protected structure on the left hand side to match the right hand side and provide an increased recess to the entrance.

(d) Provision for a lighting scheme for the pedestrian walkway.

Condition No 5: Multiple item requirements relating to architectural heritage protection and conservation to include appoint a a conservation architect to oversee the conservation works which shall include detailed survey and preservation by record to include inventories of any demolition and salvage and multiple requirements relating to conservation work methods to include compliance submissions.

Condition No 6: Requirements of the Roads Streets and Traffic Department to include daytime public access to the pedestrian link route and implementation of the mobility management framework plan.

Condition No 7: Standard requirements relating to drainage and control of flood risk including SUDS for storm water management.

Condition No 8: Standard archaeological condition to include appointment of a licensed archaeologist and preservation by record.

Condition No 9: Construction stage requirements relating to noise, dist, vibration control standards, and hours of construction.

Condition No 10: Adherence to BS5228 standards for control of noise at construction and demolition stage.

6. THIRD PARTY APPEAL BY PATRICK AND ALICE WOODS.

6.1 An appeal was received from Patrick and Alice Woods of 20 Charlemont Mall on their behalf on 4th February, 2016. No 20 Charlemont Street is a three storey end of terrace house adjoining the western boundary of the appeal site. Copies of three photographs are included in the appeal. According to the objections the proposed development would:

- Adversely affect the sunlight available t the gardens at the appellat property,
- Result in anti-social behaviour will occur along the pedestrian route.
- Cause noise and nuisance from the bar and function room areas. There is an existing problem at the Barge public house.
- Depreciate the value of the appellat's property.

- Lead to problems with pollution and with vermin there is an existing problem with rats.
- Lead to noise and traffic nuisance as the vehicular entrance is too close to the house.
- Overlook the boundary wall of the appellants' property from the roof terrace on third floor setback on facing onto Charlemont Mall
- Increase the number of hotels and there are enough hotels in the immediate area, (The Hilton Hotel and the Portobello Hotel.)

7. THIRD PARTY APPEAL BY ROBERT STAFFORD AND CIARA RYAN.

- 7.1 An appeal was received from Robert Stafford and Ciara Ryan of 11 Washington street south circular road on their own behalf on 15th February, 2016.
- 7.2 According to the submission, the revised proposals indicated in the further information submission do not overcome the impact of the proposed development due to proximity of the proposed development to the protected structure and nothing is preserved.
- 7.3 Reference is made in the appeal to inclusion of a photograph but it is among the documents on file.

8. FIRST PARTY APPEAL Development Securities-Charlemont Ltd.,

- 8.1 An appeal was received from Simon Clear and Associates on behalf of the applicant against Condition 4 (a) which is reproduced below:

“The third floor level of the northern block shall be omitted in its entirety. The proposed setbacks at the upper levels shall be retained, as set out in the revised drawings.”

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

- 8.2 According to the appeal the planning authority was not prescriptive in the request for further information regarding the height and visual impact of the development at the northern boundary adjoining the residential development approved under P. A. Reg. Ref. 3742/PL238212. Attached are some diagrams and drawings.
- 8.3 It is submitted that:

- The entire omission of the third floor in the northern block to address overlooking and loss of privacy from bedroom windows and overshadowing at Block 3 in the TK regeneration development is unwarranted and excessive at an inner city urban location in the context of the relationship between the two buildings.
- It was not considered necessary to introduce angled windows or other measures to eliminate overlooking. There is similar parapet height and above parapet heights in the hotel and Block 3. The hotel building is squat and lesser in size compared to Block 3.
- No 33 Charlemont Street with a long return is opposite most of the elevation of Block 3. It causes some early morning whereas the hotel would contribute to shadowing on the lower floors of Block 3 at midday
- There are alternative windows and aspects to the west in the balconies at the upper level units in the Block 3.
- Both buildings overlook the sports grounds and address a new street running between them and the intervening space in the adjoining development will be landscaped with trees provide shade and screening.

9. **OBSERVER SUBMISSION PHILLIP O'REILLY.**

9.1 A submission was received from Mr. O'Reilly of 18 Grosvenor Place, Dublin 6 on 29th February, 2016 According to Mr. O'Reilly:

- The site is at a sensitive location in the historic part of the City where only two original parts of Charlemont Street survive at the north west end at Harcourt Road and at the south west corner at (No 37) the former St. Ultan's Hospital originally owned and occupied as a retreat lodge by Lord Charlemont and Nos 35 and 36 which should also be included on the record of protected structures.
- The proposed development would destroy the setting of St. Ultan's Hospital (No 37 and the four storey buildings at Nos 35 and 36 Charlemont Street. Other four storey development at the other end of Charlemont Street is not relevant to the current proposal. Notwithstanding the twentieth century developments which are eyesores from which precedent should not be taken, interventions the proposed development would be overwhelming impact on the last unique historic part of Charlemont Street.
- The proposed development, taking into account the further information revisions and the changes required in the planning authority conditions is unacceptable. The size and six storey height

is excessive. The six storey development at 1 Grand Parade should not have been permitted even though there were no adjacent protected structures and the mistake should not be repeated

- Reference should be taken from P. A. Reg. Ref.1098/078 / PL 228802 at Portobello House where following an appeal against refusal of permission for development of an extension; an original proposal was modified twice resulting in an acceptable development at a sensitive location.

10. RESPONSE TO THE APPEALS BY THE PLANNING AUTHORITY

10.1 It is confirmed in a letter received on 7th march 2016 it is stated that planning authority considers the decision on the application is justified and reference is made to the planning officer report.

11. FURTHER SUBMISSION OF THIRD PARTY APPELLANT, PATRICK AND ALISON WOODS.

11.1 A submission was received on 8th March 2016 from Mr and Ms Woods on their own behalf. In the submission:

- It is confirmed that the appellants agree support the appeal by Robert Stafford and Ciara Ryan.
- It is confirmed that the appellants (do not support the appeal of the applicants in which the removal of Condition No 4 (a) is requested.

15. EVALUATION

15.1 There are two third party appeals, and observer submission and a first party appeal against Condition (4) (a). Omission of the third floor in entirety of the North facing building is required in this condition due to the proximity to Block 3 in the adjoining permitted "TK" regeneration development. The applicant seeks omission of the condition and the third party seeks retention of the condition. The issues in the three appeals and the observer submission that are central to the determination of a decision can be considered below under the following two broad subheadings.

- Impact on the Amenities of Adjoining Development and,
- Impact on Architectural Heritage and Visual Amenities and Character of the Area.
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15.2 **Impact on the Amenities of Adjoining Development.**

The impact of the revised proposal indicated in the further information submission on the adjoining permitted “TK” regeneration development and separately, the impact on residential property on Charlemont Mall are considered below having regard to nature of use, proximity, height, massing and scale, overlooking, overshadowing, noise, disturbance and nuisance and anti-social behaviour..

15.3 **Impact on adjoining permitted “TK” regeneration development.**

No. 33 Charlemont Street at the rear of which there is an industrial building in third party ownership is positioned opposite and along a considerable length of Block 3 in the TK development. The three end units in Block 3 are a combination of duplex units and apartments in relatively close proximity to and facing towards the north western boundary of the appeal site and across it to the western end of the northern block. Potential for overbearing effect and overlooking and overshadowing was significantly reduced in the revised design for the northern block of the hotel which provided for reductions to plant screen height and increased upper level setbacks at fourth floor level. The separation distances at the upper floors between the two blocks exceed eleven metres. Mitigation and is also achieved at upper levels by the setback and balconies terraces at Block 3 in the TK development in which the units are also dual aspect. Further screening and separation is achieved at first to third floor levels by the tree lined route adjacent to the boundary but seasonality may be a factor.

15.4 The occurrence of morning to midday shadow effect on the courtyard space and some lower level façade of the Block 3 in the “TK” development would occur but at upper levels the revised setbacks and height for the proposed hotel building reduce the impact of the original proposal effectively without necessity for omission of a floor.

15.5 It is considered that a satisfactory reciprocal arrangement has been achieved in the revised proposal with regard to the relationship between Block 3 in and the northern elevation. It is recommended that as the case made on behalf of the applicant in the first party appeal against Condition No 4 (a) be accepted unless the condition is considered justifiable on other grounds.

15.6 There would be increased shadow effect on the sports grounds to the west of Block 3 in the adjoining development. Although this may be undesirable, with regard to this land use it is not apparent that there is a definite and specific onus on a developer with regard to standards and extent to which any impact should be mitigated.

15.7 **Impact on Charlemont Mall Residential Properties.**

One of the appellant parties occupies the three storey end of terrace dwelling at 20 Charlemont Mall to the west side of the appeal site. Residential development incorporating Charlemont Court is located along Charlemont Mall.

15.8 The Access Lane. The access lane is to be used as a pedestrian and cycle access route to the adjoining development and as an access route to cycle parking, the services area and lift and to the hotel carpark lift. It is considered that this element of the proposed development would not give rise to potential for significant adverse impact on residential amenity for a number of reasons most of which are identified in the applicant's submissions and include the following:

- The lane is screened from the side boundary of No 20 Charlemont Mall by a wall approximately three metres in height and is to be built over by the upper floors of the hotel building.
- The basement carpark capacity is limited to ten spaces only and the services area is off the public road and laneway in a dedicated area with lifts being provided for both areas.
- A lighting scheme can be provided and is required by condition attached to the planning authority decision.
- There is passive surveillance from the restaurant overlooking the lane from within the hotel building.

15.9 In terms of concerns about anti-social behaviour indicated by the appellant, fully comprehensive assurances about twenty four management of access and use of the laneway other than the normal management security measures such as CCTV. etc. To this end, the potential concerns of occupants of adjoining residential property about amenity and property value are understandable.

15.10 With regard to concerns about rodents, the close proximity of the site location to the canal is of note. However subject to the good management arrangements for maintenance and waste which should be stored within the confines of the site with regular collections.

15.11 It is considered that conditions of a standard nature whereby compliance submissions are required in which the management of the development, and in particular the lane, deliveries and waste and storage arrangements and collections at operational stage are essential for the purposes of clarity and assurance of surrounding developments. Similarly, conditions to address construction and construction traffic management arrangements would also be appropriate should permission be granted.

15.12 It is of note that a high quality specification for design and materials is proposed for the access lane which gives it high amenity potential that contributes to the quality of the hotel environment which, in conjunction with good and management and surveillance precludes nuisance and anti-social behaviour

15.13 Restaurant and bar facilities: It is not accepted that not accepted that the location of the restaurant use is at the southern western site

frontage of the hotel ground floor is incompatible with the adjoining residential uses. This use, which has good visual interconnectivity with the canal –side area along Charlemont Mall and access lane provides passive surveillance and active street frontage that does not spill over into the street and laneway outside and should not adversely affect residential amenity at adjoining properties. There are no outdoor verandas or terraces at the western end. The hotel entrance is located away from the residential development towards the eastern end of the frontage adjacent to the Barge pub. While customers at the Barge pub may occasionally congregate outside the premises, there is no persuasive argument that patrons of the hotel restaurant, hotel bar and other facilities within the hotel development would congregate outside in the vicinity of the residential properties on Charlemont Mall .

15.14 New Hotel Building. The potential for overshadowing of Charlemont Mall properties is limited. The rear private open spaces of the adjoining houses are to the north-west of the proposed building the footprint of which extends marginally beyond the rear building line of the houses. Increased overshadowing attributable to the proposed development would be for a limited morning to midday period from the south east. The setbacks at the western end curtail potential for overshadowing by the building but the ameliorative effect of transition in heights and potential for an overbearing effect on the adjoining dwelling as opposite to an abrupt height change between the two building heights is more significant. Sunlight enjoyed at the end of these gardens would be unaffected by the proposed development. There is no potential for direct overlooking of the properties on Charlemont Mall having regard in particular to the configuration of the rear private open space at No 20.

15.15 The concerns about an over concentration of hotel development is also noted. Nevertheless, there appears to be no firm basis, having regard to the Z: 10 zoning objective for rejection principle of additional four star hotel developments in the area. There is a compatible mix of land uses within the central city area between the canals and well serviced by transport options.

15.16 **Visual Impact and Architectural Heritage Protection.**

It is considered that the proposed development incorporating the revisions included in the further information submission is fully acceptable in presentation onto the Charlemont Mall frontage. The location is sensitive being within the Grand Canal Corridor Conservation area, the mix of contemporary and historic architecture, amenity value and potential as a waterway and linear park and route for cyclists and pedestrians in particular.

15.17 In views along Charlemont Mall the building height, incorporating the setbacks and vertical emphasis in the façade and fenestration detailing pre-established allows for satisfactory integration with the established

urban grain along Charlemont Mall. The location has the capacity to accept the massing and height of the structure and the restaurant and bar use at ground floor level adds visual interest to the public using the area in the immediate vicinity. The building is a satisfactory integration into the streetscape in views along the canal-side and road from the west. It inserts and integrates successfully in conjunction with the upper level east facing elements behind the existing buildings into the existing cluster of buildings at the southern end of Charlemont Street and Canal Road in views on approach from the east along from the canal towards Charlemont Bridge.

- 15.18 In views from Charlemont Bridge and on approach from Ranelagh Road the proposed development is an appropriate insertion behind the existing buildings, in particular with the Barge to the front at the corner and compatible with other recently constructed five and six storey development facing the canal and along Charlemont Street.
- 15.19 In views along Charlemont Street on approach from Harcourt Road the permitted regeneration development is in the foreground with the proposed new hotel building coming into views in close proximity. The separation distance between the new build and the existing structures are sufficient to allow for an appropriate and sensitive presentation of the buildings, especially No 37 which is setback from the frontage in streetscape and more distant views subject of glazing where visible behind the historic buildings.
- 15.20 The streetscape presentation along the frontage of the Nos 35, 36 and 37 where the buildings and sites are vacant will be altered by the removal of the twentieth century annex and by the refurbishment works resulting in an enhanced streetscape. The comprehensive conservation assessment report included with the application has been carefully reviewed and the conclusions and recommendations are fully accepted. It is therefore agreed that the proposed removal of the annex, (stated to be an early design of Michael Scott but with later additions and alterations) and the proposed external and internal interventions and other works to the existing buildings are appropriate and fully justified and warranted in the interests of their survival, adaptation and positive incorporation into and integration within the overall development.
- 15.21 The requirement for setback and recess of the entrance for the new build bar and café area from the protected structure is not considered essential. This element is setback to the rear of the adjoining buildings, perpendicular to the front façade is distinct and readable as an element of the new build and considered compatible and that no reductions are required. Should permission be granted, Condition 4 (a) could therefore be omitted.
- 15.22 Within Condition No 5 attached to the planning authority decision there is guidance as to conservation methodology as well as some details to be agreed by compliance. Some of these requirements are provided for

in good practice as the statutory Architectural Heritage Protection Guidance issued by the DOEHLG in 2005 and the supporting technical guidance volumes subsequently issued by DAHG. These standards can be applied if the project is carried out under the direction of a person with suitable expertise in architectural heritage. For the purposes of clarity and assurance as to good practice a method statement can be required for compliance purposes by condition. These requirements can be addressed by condition which can include additional specific amendments such as omission of use of timber decking in the forecourt, should permission be granted.

16. APPROPRIATE ASSESSMENT SCREENING.

- 16.1 The applicant provided an appropriate assessment screening report within in the application submission which has been consulted for reference for appropriate assessment screening purposes.
- 16.2 The site is not within any European sites and is a brownfield, serviced site at a central city location. The proposed development involves demolition of existing buildings, removal of materials off site and construction of a larger, more intensive hotel development in which some historic buildings are to be retained.
- 16.3 The South Dublin Bay Special Area of Conservation [Site 0210] is circa three kilometres and the conservation interest is *tidal mudflats and sandflats*. They have unfavourable conservation status but there is likely to trend towards improvement to the habitat condition.
- 16.5 The South Dublin Bay and River Tolka Estuary Special Protection Area (4024) is circa four km from the site and the qualifying interests are several wintering, breeding and wetland and bird species of special conservation interest.
- 16.6 The North Dublin Bay Special Area of Conservation (site 0206) is circa four kilometres from the site location

The qualifying interests are:

Mudflats and Sandflats, [1140]
Annual Vegetation drift lines [1210]
Salicornia and other annuals colonizing mud and sand [1310]
Atlantic salt meadows [1330]
Petalwort [1395]
Mediterranean salt meadows [1410]
Embryonic shifting dunes [2110]
Shifting white dunes [2120]
Fixed grey dunes [2310]
Humid dune slacks [2190]

These habitats have unfavourable conservation status. The threats include pollution, agricultural and recreational activities, invasive species and land reclamation and defences.

- 16.7 Waters in Dublin Bay are classified as unpolluted and pollutants will be decreased in the longer term with the inclusion of SUDS systems for storm drainage in new development and upgrades to the Ringsend WWTW that will reduce pressure on habitats and species in the Bay.
- 16.7 Several other European sites come within fifteen kilometres distance from the appeal site and they are listed and along with the conservation objectives and possible source-pathway-receptor links in the screening report provided by the applicant.
- 16.8 The potential source-pathways-receptor linkage is surface and foul water drainage between the site of the proposed and the European sites.
- 16.9 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.
- 16.10 At construction stage surface water runoff occurring at any significant rate would contain imperceptible contaminants and would occur for short periods only. Sustainable Urban Drainage Systems (SUDS) which will minimise run off have been incorporated in the development.
- 16.11 There is no risk to the European sites in close proximity or to any other European site due to the proposed development of the proposed development at construction and operational stages.
- 16.12 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 a screening determination can be reached. It is reasonable to conclude on the basis of the information available that the proposed development individually or in combination with other plans or projects would not be likely to have a significant effect on the South Dublin Bay Special Area of Conservation [Site 0210], the South Dublin Bay and River Tolka Estuary Special Protection Area (4024), the North Dublin Bay Special Area of Conservation (site 0206) or any other European site in view of the conservation objectives. A Stage 2 Appropriate Assessment is therefore not required.

17. CONCLUSION AND RECOMMENDATION.

- 17.1 Having reviewed the application and in particular the issues raised in the third party appeals, the observer submission and the first party appeal submission of the applicant, it is considered that the planning authority decision should be upheld subject to omission of the requirements under Condition No 4 (a), minor changes to the requirements of the other conditions and additional conditions relating to management and a bat roost survey prior to construction as recommended in the Bat Survey report submitted with application.
- 17.2 A draft order is set out overleaf.

DECISION

Grant Permission on the Basis of the Reasons and Consideration 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 10: *“To consolidate and facilitate the development of inner city and inner suburban sites for mixed use development of which office, retail and residential would be the predominant uses”*
- to the existing historic buildings within the site at Nos 35, 36 and 37 Charlemont Street (protected structure),
- the Grand Canal Corridor conservation area,
- to the proposed hotel use and the form, mass, height, materials, finishes, design of the proposed development and existing and permitted development in the area and,
- to the nature and extent of the proposed works to the historic buildings on the site to be incorporated within the proposed development, including the removal of the twentieth century annex to the front of No 37 Charlemont Street,

it is considered that subject to compliance with the conditions set out below, the proposed development would integrate satisfactorily with the historic buildings and the established character and pattern of existing and permitted development, would not seriously injure the visual amenities in the area or the residential amenities of properties in the vicinity would be acceptable in terms traffic safety and convenience, and in terms of public health and would be in accordance with the development objectives and 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 further plans and particulars submitted on 25th November, 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 works to the historic buildings shall be carried out under the direction of a person with specialist expertise in historic building conservation who shall prepare a fully detailed conservation method statement which shall be submitted to the planning authority for written agreement prior to commencement of the development. It shall contain full details of all works including the following requirements.
 - (a) All repair works to the protected structure shall be carried out in accordance with best conservation practice as provided for and the Architectural Heritage Protection Guidelines for Planning Authorities issued by the Department of Environment, Heritage and Local Government in 2005.
 - (b) Clear distinction of the building evolution and extant historic fabric.
 - (c) Retention within the development of the historic joinery within the existing buildings and minimum intervention to other historic fabric.
 - (d) Provision for a paving and planting scheme and omission timber decking in the courtyard and front entrance area to No 37 Charlemont Street.

Reason: In the interests of good building conservation practice, conservation, architectural heritage protection and clarity.

3. Prior to the removal of the twentieth century annex structure to the front of No 37 Charlemont Street a full architectural survey to include an inventory and photographs shall be completed under the direction of a person with specialist expertise in architectural heritage conservation. It

shall be lodged the Irish Architectural Archive (DOCOMOMO) in accordance with the requirements of the planning authority.

Reason: In the interest of preservation by record of architectural heritage.

- 4 A pre works survey for evidence of bats and bat roosts shall be carried out by a suitably qualified expert in wildlife conservation between the months of mid-April and September prior to the commencement of the works, in consultation with and in accordance with the requirements of the National Parks and Wildlife Service and to the satisfaction of the planning authority.

Reason: In the interest of the protection and conservation of bat species.

- 5 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 the 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.

- 6 A construction traffic management plan shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The plan shall include details of arrangements for routes for construction traffic, parking during the construction phase, the location of the compound for storage of plant and machinery and the location for storage of deliveries to the site.

Reason: In the interests of public safety and residential amenity

- 7 Prior to the commencement of the development, the developer shall submit to, and agree in writing with, the planning authority details of all the materials, textures and colours for the external facades including fenestration. Samples shall be displayed on site to facilitate the planning authority.

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

- 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 and shall include.

Reason: In the interest of public health.

- 9 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.

- 10 Site development and building works shall be carried out only between the hours of 08.00 to 18.00 Mondays to Fridays inclusive, between 09.00 to 14.00 on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

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

- 11 No additional development shall erected above roof parapet level, including lift motor enclosures, air handling equipment, storage tanks, ducts or other external plant, telecommunication aerials, antennas or equipment including the satellite dish shown on the roof plan unless authorized by a further grant of planning permission.

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

- 12 The management and maintenance of the proposed development 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, cycle parking areas, a lighting for the access lane and other external areas, waste storage facilities and sanitary services, shall be submitted to and agreed in writing with the planning authority, prior to occupation of the development.

Reason: To provide for future maintenance, amenity and orderly development.

- 13 A plan containing details for the management of waste within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials and for the ongoing operation of these facilities shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the waste shall be managed in accordance with the agreed plan.

Reason: In the interests of residential amenity and proper waste management.

- 14 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.

- 15 The developer shall pay to the planning authority a financial contribution in respect of the Metro North 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 is applied to the permission.

JANE DENNEHY
Senior Planning Inspector
19th May, 2016.