

An Bord Pleanála



Inspector's Report

PL 29S 246121

DEVELOPMENT:

Refurbishment and extension to existing seven storeys over basement building to include: change of use to cafe at basement and ground floor, new access of Burgh Quay at ground floor level, new seven storey extension (ground to sixth floor, , demolition of existing fifth and sixth floors and two new office level and terraces/balcony, removal of existing facades and replacement with new facades, overhang on upper levels over footpath at Burgh Quay and Hawkins Street corner, retention o south, west and north inner facades in part with upgrading within external insulation and new windows Internal refurbishment and reconfiguration, reconfiguration of basement carparking, reduction from eighteen to twelve space, provision for fifty two cycle spaces, bin storage and plant at basement level and associated ancillary works.

at

Scotch House Burgh Quay and Hawkins Street, Dublin 2.

PLANNING APPLICATION

Planning Authority: Dublin City Council.
P. A. Reg. Ref: 3084/15
Applicant: M F Properties Ltd.,
Decision: Grant Permission

THIRD PARTY APPEALS

Appellant: (1) An Taisce
Appellant: (2) Empire Amusements
Observers Philip O'Reilly,

Inspector: Jane Dennehy.
Date of Inspection: 23rd May, 2016.

1.0 SITE LOCATION AND DESCRIPTION

- 1.1 The site is a corner site at Burgh Quay and Hawkins Street, is roughly L shaped and has a stated area of 935 square metres. An existing office block, constructed in the 1980s, known as 'Scotch House' (formerly Aviation House) which is vacant but has been in use as a private college and which is located on the site. It is a seven storey over basement building with a plant room beneath a mansard roof at the top floor and it has a stated floor area of 4,002 square metres. The frontage extends approximately thirty nine metres along the western frontage of Hawkins Street and sixteen metres on the northern Burgh Quay frontage. A service lane, "Leinster Market" at ground floor level is located between the Gas Company building and the existing building on site and extends as far as D'Olier Street and Burgh Quay. Access to this lane is closed.
- 1.2 To the south side of the site on Hawkins Street and D'Olier Street is the former Gas company building structures, to the south east is Hawkins House which also comes into views from the north west behind the appeal south This site location is at the southern end of the Rosie Hackett Bridge serving the LUAS, pedestrians and cyclists linking Marlborough Street and Hawkins Street across the river and the Quays. The Sheahan monument as at the entrance and there are a range of historic and modern buildings along the southern side of the quays to each side of the appeal site.

2. PLANNING HISTORY:

- 2.1 The existing office block was constructed in the early 1980s. There is no record of planning history in the planning officer report. According to the application submission there is a record of minor applications as outlined below:

P. A. Reg. Ref. 1425/94: Permission was granted for relocation of an entrance, a canopy and for signage.

P. A. Reg. Ref. 2318/94: Permission was granted for a collapsible grill, security gates.

P. A. Reg. Ref. 3030/13: Permission was refused for non-illuminated signage for Eden College on the Hawkins Street and Burgh Quay facades. This grant of permission expires on 30th June, 2016.

P. A. Reg. Ref. 2407/11: Permission was granted for change of use for a five year period to educational use.

P. A. Reg. Ref. 1822/00: Permission was granted for erection of gates and entrance doors on the Burgh Quay façade

P. A. Reg. Ref. 0135: Permission was made for retention of a front entrance steps handrails parapet detail and signage.

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 site location is within:

- The area of the O’Connell Street Architectural Conservation Area (a statutory ACA) and Area of Special Planning Control.
- The area of River Liffey Quays Conservation Area, (Provisions for designated Conservation Areas are set out in section 7.2.5.2. Policy FC 41 provides for protection and conservation of special interest and character or conservation areas in the development management process.
- Immediately adjacent to the area of the George’s Quay Local Area Plan, adopted by the Council in 2012.
- The zone of Archaeological potential for recorded monument DU018-020.

3.3 Included on the record of protected structures is the Sheahan Memorial on the footpath at the entrance, buildings to the west and to the east of the appeal site which include Nos. 1, 2 and 3 Burgh Quay, Nos 8-13 Burgh Quay and Nos 3 and 4 Hawkins Street to the rear of Nos 19-20 D’Olier Street. The Dublin Gas Company Building at No 26 D’Olier Street is also included on the Record of protected structures.

3.4 The Quays including the campshires and boardwalk are identified as a key lynch pin in the inter-connected public space network within the inner city. (Figure 4 Chapter 4)

Policy SC7 provides for protection of significant views.

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

3.4 Design and Development policies, 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 site coverage is 90 per cent. However in certain circumstances a higher plot ratio may be considered.

- 3.5 Para 17.1.1 provides for new development to enrich the urban qualities of the city encouraging a distinctive response complementing the setting. Policy SC2 provides for the protection of the grain, scale and vitality of city streets.
- 3.6 Policy Objective FC 26 provides for protection and conservation of the cultural and built heritage sustaining its unique significance, fabric and character to ensure survival for future generations. Section 17.1.1 ensures that new development enriches urban quality distinctively.

4. THE PLANNING APPLICATION.

- 4.1 The application was originally lodged with the planning authority on 5th December, 2015 and a further information request was issued to the applicant on 19th August, 2015. The request related to design, having particular regard to design parameters of the O'Connell Street Architectural Conservation Area and in relation to details of site boundaries and possible encroachment on adjoining property. A response was submitted on 5th December, 2015.
- 4.2 The proposed development, taking into account the modifications proposed in the further information submission comprises:
 - Demolition of the existing fifth and sixth floors and construction of two new fifth and sixth floors with office space which will be extended southwards and westwards. (Revised proposals) (1,175 square metres) The existing sixth floor houses plant under a mansard roof;
 - Construction of an extension from ground floor to sixth floor (seven levels on the west side of the building. The building is to be extended westwards.
 - Provision for a 'wrap around' terrace /balcony at fifth and sixth levels with glazed balustrading for use as an amenity area (199 square metres) inclusive of an increase in sixth floor setback.
 - Removal of and replacement of existing facades on Hawkins Street and Burgh Quay elevations. Revised proposals.)
 - Internal refurbishment and reconfiguration. (3,294 square metres
 - Reconfiguration of basement to provide for a reduction from eighteen to twelve parking spaces.

- Fifty two cycle spaces bin storage and plant and equipment at basement level.
 - Change of use of the ground floor to cafe from office use with an independent access off Burgh Quay. (140 square metres)
- 4.3 The total stated floor area of the building following demolition works is to be increased from 4,002 square metres to 4,940 square metres, site coverage is to increase to 67.7 percent from 45.5 per cent and plot ratio is to increase from to 5.3. The height is to increase to twenty four metres from 23.5 metres with similar setbacks to the existing at fifth and sixth floors on the Burgh Quay frontage and an increased setback on the Hawkins Street frontage.
- 4.3 According to the planning report submitted with the application, the proposed development is consistent with strategic and local policy objectives and the enlarged/extended office plates will facilitates modern multi tenancy of single tenancy requirements as provided for in Policy Objectives RE 9 and RE 22 in the development plan.
- 4.4 The **application** drawings are accompanied by:
- A Planning Statement, Design Statement, Sustainability Statement, Flood Risk Assessment, Construction and Demolition Waste Management Plan, Traffic Assessment Report and Mobility Management Plan, Design Strategy for Service Installations, Landscape and Visual Assessment report, Visual Impact Assessment and Photomontage views, Architectural Conservation Report, Archaeological Assessment report, Shadow and daylight analysis, A Bat and Bird Survey and, An Appropriate Assessment Screening report.
- 4.5 The **further information submission** is accompanied by a statutory declaration relating to land ownership and documents which it is claimed demonstrate that the revised proposal is positive in impact on respect of all relevant considerations. These documents are:
- A supplementary Planning Statement, Revised drawings, Design Statement, Architectural Conservation statement, Revised Landscape and Visual Report, and, Photomontages.

4.6 **Third Party submissions and objections** indicate the main concern as excessive intensity and height at seven storeys dwarfing existing buildings or obstructing access to daylight at No 4/5 Burgh Quay and adverse visual impact and incompatibility with existing development.

4.7 **Technical reports.**

The report of the Environmental Health Officer indicates no objection subject to conditions.

The report of the City Archaeologist contains a recommendation for attachment of an archaeological monitoring condition and preservation by record.

The report of the Roads and Traffic Planning Division indicates satisfaction with the proposed development. Standard conditions including a condition relating to mobility management 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 at application stage to the internal City Architect's Department and Conservation Officer inviting observations and recommendations.

5.0 **DECISION OF THE PLANNING AUTHORITY.**

5.1 By Order dated, 12th January, 2016 the planning authority decided to grant permission for the proposed development subject to twelve conditions which are of a standard nature and none with requirements for modifications to the proposed development. Condition No.10 which has an additional requirement is reproduced below.

"The roller shutter and its casing shall be recessed behind the glazing and shall be factory finished in a single colour to match the colour scheme of the building prior their erection. The roller shutters shall be of the open lattice type and shall not be painted on site or left unpainted or used for any form of advertising.

Reason: *In the interest of visual amenity.*

6.0 THIRD PARTY APPEAL BY AN TAISCE

6.1 An appeal was received from An Taisce on 8th February, 2016 in which it is stated that the proposed development would not protect the scale, setting and civic design of the Liffey Quays Conservation Area and would be contrary to the provisions of the Dublin City Development Plan, 2011-2017 relating to the subject Architectural Conservation Area and the setting of protected structures. (Several development plan policies and objectives are referred to and are reproduced in the opening paragraphs.)

6.2 According to the appeal the double penthouse above the parapet is not acceptable and two additional floors above the parapet in the Liffey Quays Conservation Area and would be over scaled, visually obtrusive and unacceptable. Other buildings that have been redeveloped or refurbished have a single additional setback floor have a four storey parapet and this is the established model buildings have comparable site areas, frontage, scale and context. in order to preserve the scale and setting of the Liffey Quays. Examples are: Eliza Lodge, 24 Wellington Quay, Morrison Hotel, Lower Ormond Quay, Laughter Lounge, 6 Eden Quay, IBAT College, 16-19 Wellington Quay The existing building has a roof storey above the five storey parapet The plant in the roof mansard does not count as a floor.

7.0 THIRD PARTY APPEAL OF EMPIRE AMUSEMENTS.

7.1 An appeal was received from Cunnane Stratton Reynolds on behalf of Empire Amusements, 4-5 Burgh Quay, (adjoining property) on 8th February, 2016 including some plan drawings. The appeal grounds can be outlined as follows:

- The site shown in the red line boundary in the application encroaches on the appellant property. The appellant has had a right of easement over some of lands since 1980. Accompanying location and plan drawings show a strip of lane adjoining the northern side of the western section of the site and a space on the Hawkins street frontage. Supporting documentation can be provided on request. The applicant therefore has insufficient legal interest to implement the development and the application should be withdrawn or declared invalid.
- The proposed development equates to a twenty three percent increase in floor area and an increase from 4.25 to 5.25 in plot ratio which far exceeds the 2.5-3.0 percent indicative plot ratio provided for in sections 17.4 and 17.5 of the development plan. The criteria allowing for consideration of higher plot ratios as not relevant as it is not a mixed use residential and commercial scheme and redevelopment is not required to main the streetscape profile or to facilitate the redevelopment of the area. The only justification is the

existing higher plot ratio but the increase to 5.25 is not justified. Adherence to the indicative plot ratio or, at least the existing plot ratio is important due O'Connell Street ACA and several protected structures in the area and because the proposed development is overdevelopment. Compatibility in scale with the area is required in section 17.10 of the development plan.

- Overshadowing and loss of daylight of the appellant property which occurs with the existing will be increased by the proposed development. There will be permanent overshadowing. Daylight at the rear will be reduced by half across the second to fourth floor to a range of 0.3 to 0.7. This significant change in impact will reduce potential future use and occupancy and is unacceptable.
- The appellant is deeply concerned about impact on the O'Connell Street Architectural Conservation Area (ACA) and on protected structures especially the Gas Building (RPS 2307) at the rear of the site.
- "Key considerations" in the ACA and the development plan were overlooked at application stage. (Extracts are reproduced) The proposed development is visual obtrusive and over dominant and is contrary to section 17.10.8.1 of the development pan.
- Reference is made to the ACA which specifies a sensitive response to the streetscape in hew development so that a harmonious rhythm is achieved and in which several buildings which are ill considered infill developments are identified.
- It is accepted that the existing building is inconspicuous but any presumption that an overstated building is an improvement is wrong. The redesign of the proposal is not an improvement on the original. It is a pastiche of inappropriate mid twentieth century style, within the ACA. Square windows framed in chamfered masonry mullions are reminiscent of Agriculture House on Kildare Street. It is cage like and disregards the prevailing rhythms.
- The Gas Building, a protected structure is a fine example of 1920s architecture. It links right through Leinster Market to Hawkins Street. (Appendix 4 refers.) The proposed design takes no account of the multi-phase elevation with mock Tudor features appropriately grained for the narrowness to the street. The impact on the Gas Building was not taken into a consideration in the conservation statement included with the application.
- The proposed development will have a negative impact on the ACA and on the protected structure. It is overbearing, inconsistent with the scale of surrounding buildings and has inappropriate facade treatment. It will have significant adverse visual impact and contravenes the Development plan policies for the ACA and in the vicinity of protected structures as set out in section 17.10.8

- There is no evidence that the Conservation Officer was consulted prior to or during the application process. Input from the Conservation Office at Dublin City Council is expected given the location adjacent to the Gas Building, a fine example of 1930s architecture and a protected structure and the location within the within the O'Connell Street ACA. Permission should be refused.
- The removal of the top two floors and existing facade is a concern in terms of noise and dust emissions due to proximity to the appellant property. If permission is granted, conditions to ensure that the potential impacts are minimised should be attached.

8. **OBSERVER SUBMISSION, PHILIP O'REILLY.**

8.1 A submission was received from Mr. O'Reilly of Grosvenor Place, Rathmines, on 29th February, 2016. According to the submission the proposed development should be rejected on grounds of being too inappropriate in design, too high and incompatible with the historic surroundings as outlined below.

- The proposed development is unsuitable for and would disrupt the sensitive river frontage.
- The building is oversized overdevelopment and overwhelming in relation to the four storey terrace. It would tower up the eighteenth century terrace and dwarf Bur Quay affecting views from Butt Bridge, O'Connell Street and further afield.
- The existing building has tied in with existing uniformity on Burgh Quay and maintains small window proportions and brick elevations. The departure in the current proposal would be similar in effect in destroying symmetry and character as has occurred on the south side of Stephen's Green between Earlsfort Terrace and Iveagh House.
- The views from Pearce St and O'Connell Street of the terrace at 1-7 D'Olier Street (Former Irish Times Offices) was also destroyed by ugly, higher new buildings behind the terrace.
- The best design is to maintain small traditional elevations with small windows instead of the glass wall elevations. The original design proposed is better than the revised proposal. Ultimate harmony in design, size height with respect to the remaining traditional buildings with a maximum of five storeys is what is required. The existing building is not seven storeys and the top section is a roofed section which leaves a lot to be desired.

9. RESPONSE TO THE APPEAL BY THE PLANNING AUTHORITY.

9.1 There is no submission from the planning authority on file.

10. RESPONSE TO THE APPEAL BY THE APPLICANT.

1.1 A submission in response to the third party appeals was received from Stephen Little and Associates on behalf of the applicant on 8th March, 2016. Included is a copy of a letter by the applicant's solicitors, Kelly and Kennedy) relating to land ownership issues. It is stated that consultations with the planning authority took place prior to the application and lodgement of further information and that fifty per cent size samples of the proposed elevation finishes can be inspected on site. An outline of the points made in the submission follows:

- The Gas Company building (RPS 2307) does not include the lighting company building adjoining the site on Hawkins Street as is confirmed in the conservation report so there is a clear distinction between them as shown on the map included.
- The ACA extends which is in a north south direction is intended to afford protection to O'Connell Street and environs as opposed to the quays and to ensure new development is positive on historic fabric. The design response had regard to the relevant policy provisions indicated in the submitted Conservation report. Specialist conservation input involved shows conservation gain rather than adverse impact on architectural heritage.
- A detailed rationale for the modified design, form, massing of the top floor setback, façade elevation treatment and uppermost floor setback is available in the revised design statement.
- The top storey was reduced with a setback increase of 1500mm on the Burgh Quay frontage. The parapet line at the corner is extended upwards by 1200 above to define the corner element, reference the historic plot widths and reduce the dominance of the two top setback storeys. The parapet of the raised section matches the parapet to Burgh Quay and Hawkins Street and the corner is a solid framed element instead. The altered fenestration on the top two storeys reduces the exposure of aluminium flashing, transoms and mullions. The height increase at the corner reduces the impact of the upper floors in views from closer proximity. The planning officer commented positively.

The façade modifications emphasise the plot widths and there are references to the fenestration in adjoining buildings by additional stone framing at each floor widths. The historic plot widths are evident in the defined corner element. Vertical

emphasis adds interest and variation to the composition and increased solid elements and less glazing provides a finer grain. Kilkenny blue limestone is introduced to achieve a more harmonious relationship with the plot widths and surroundings.

The revised landscape and visual assessment and photomontages demonstrate further appreciation and it concludes that the revised design is an improvement.

- There is no statutory requirement for referral of the application to the conservation officer as it is in internal referral process. There was significant input from the conservation architects involved in preparing the application and revised proposal the application confirming that the modified design is an improvement.
- Removal of a floor would affect the commercial viability of the proposed development which is dependent on it being retained. The building is a significant improvement for users and occupants and the environment. These economic considerations are specific to the economic development policies in the development plan (RE 22, RE2, RE3, RE4, RE9 and RE14.)
- The existing plot ratio exceeds the indicative plot ratio and it is a modest increase which accords with the Z5 zoning. A modest 18.7 percent addition to the existing floor area is proposed. Development plan plot ratio standards need to be considered in conjunction with site coverage, height, open space parking uses etc. and not in isolation. The refurbishment and extension will significantly improve the contribution of the building to the area. It is exceptionally well located, being in the city centre and in terms of public transport including the new LUAS cross city route and highly accessible.
- Existing daylight factor levels at the south facing 2nd to 4th floor windows in the adjoining building is less than two per cent and artificial lighting is used as indicated in BS 8206-2 The ADF with and without the proposed development in place or the appellant's building is well below 2 per cent. The BS 8206-2 targets are designed for flexible interpretation and for use in low density development which is different to a city centre and urban regeneration site.
- Conditions 5 (b), 7, 11 and 12 attached to the planning authority decision regarding construction and demolition requirements are all acceptable. The construction phase is temporary and will be well managed. There is no mandatory guidance.
- The appellant has a right of way on foot for emergency purposes by foot through the application site at 6 Burgh Quay and the application does not interfere with it. The appellant is aware that

he has right of way for emergency purposes (at basement and ground level) and that it does not restrict future development at the appeal site. There has been no change since 1981 in boundaries in a conveyances dating back to 1980 for 6-7 Burgh Quay and 13 Hawkins Street.

- A letter of consent to the application would not be relevant or necessary. (The appellant shows the same area in an application under P. A. reg. ref. 4231/15 but the extent of Title does entitle him to include that area in the application. The same extent of title is also shown under P. A. Reg. Ref. 3166.)

10. FURTHER SUBMISSION OF AN TAISCE, APPELLANT.

- 10.1 A submission was received from the Appellant on 16th March, 2016 in which support for the Appeal by Empire Amusements is indicated. It is stated that the proposed development is discordant, unsympathetic development for the Quays the protected structure, the ACA and protected views.
- 10.2 According to the submission there is no architectural rationale for the revised proposal in which there is a giant double height storey. Lower storeys should, in Dublin's simple classical design should be the taller floors. It does not complement the ACA, assimilate with adjoining buildings, is inappropriate at the location. The giant feature at a development at 1-3 Castle Street is appropriate because it has a reference to a mediaeval cage work house. A seven storey building is also grossly excessive for the Conservation area
- 10.3 If permission is granted it is recommended that the top floor be modified to the main elevations in size and detail and that a floor is omitted.

11. FURTHER SUBMISSION OF EMPIRE AMUSEMENTS, APPELLANT

- 11.1 A further submission was received from Cunnane Stratton Reynolds on behalf of the appellant on 12th April, 2016 in which observations are made on the response to the submission of the applicant. Attached is a copy of ahistorical report and architectural impact statement for the former Gas Headquarters Building on D'Olier Street and an extract from the Dublin Street Directory.
- 11.2 The extent of the former Bord Gas building shown in the conservation comment with the application as includes the Hawkins Street façade which was built to the design of Robinson and Keefe in 1928. It is not clear as to how the Dublin Gaslight Company can be referenced to the Hawkins Street elevation. It is likely to have been one of a number of gas companies were amalgamated in 1866, before construction of the

headquarters building in the 1930s. Thoms' directory entries referenced in the conservation report lodged with the application for change of use of the Gas building in 2003 includes documents from the Architectural Archive in which site assembly including the plots on Leinster Market and Hawkins Street are referenced. The property runs from D'Olier Street to Hawkins Street and incorporates Leinster market. It has a half basement so the ground floor at Hawkins Street is at basement level at The D'Olier Street end. It is a single entity as a protected structure.

- 11.3 If the intention was to protect a portion or element of a structure it would have been indicated in the text in the RPS and it is erroneous to exclude portions of a building by interpretation of a street address. Even if it is concluded that a fraction of the building is protected, the remainder is within the curtilage with legal protection as provided for in section 2 of the Act.
- 11.4 The appeal grounds relating material contravention of development plan policies regarding development in an ACA and the protected structures are reiterated with references to the overbearing nature relative to the gas building, to the number of storeys, height, impact on views and relationship with the existing buildings and impact on the ACA are reiterated. Refusal of permission is requested.

12. **EVALUATION**

- 12.1 The issues raised in the submissions in connection with the appeal which are addressed below are:

Legal Title,
Extent of Statutory Protection, (Former Dublin Gas Company Building),
Impact on internal daylight access at adjoining Property,
Intensity of Development,
Design, Visual Impact and Architectural Heritage Protection.

12.2 **Legal Title.**

According to the appeal of Empire Amusements) the property of the appellant comprises the area between D'Olier Street and Hawkins Street inclusive of Leinster Lane. This is disputed by the applicant and it is claimed that the appellant has a right of way by foot only over identified space within the application site, to facilitate emergencies. However, full details from land registry maps and folio details are not available in either the applicant or appellant submissions which would

provide confirmation including burden on title or otherwise. It is recommended that the application and appeal be determined in all other respects having regard to the provisions of section 34 (13) of the Planning and Development Acts 2000-2015. It is open to the parties to seek resolution of the dispute over this matter through the legal system.

12.3 Extent of Statutory Protection, (Former Dublin Gas Company Building)

The entry on the record of protected structure is for, "No 26 D'Olier Street" with the description, "*Former Dublin Gas Company Building*". (Item. 2307) The extent of statutory protection, having regard to the inclusion is unclear and the views of the applicant and appellant differ. However, clarification as to the extent of statutory protection is a matter for the planning authority. It is regrettable that the Conservation Division of the City Architect's Department was not invited to take the opportunity to make relevant information from its records and its observations available at application stage which would have provided clarification.

12.4 Clarification as to the extent of statutory protection can also be confirmed through the provisions of the section 5 and/or section 57 of the Act. Declarations as provided for in Section 5 and in section 57 of the Act do not appear to have been requested or issued by the planning authority. Other than in its role in relation to Referral of a relevant section 5 Declaration or a request for review of a section 57 Declaration it is not within the remit of the Board to intervene or adjudicate on this matter.

12.5 Notwithstanding the foregoing, an assessment of the proposed development taking into account the submissions made in connection the appeals has been completed.

12.6 Impact on internal daylight access at adjoining Property,

The rear/south side of the adjoining development is dependent on artificial lighting. The argument provided the response to the appeal, with reference to BS 8206-2 demonstrates the proposed development would not directly cause poorer access to light to the internal accommodation. This argument is persuasive in that the internal accommodation in the adjoining building with either the existing or proposed development in place has a very low artificial daylight factor at less than two percent. Relative to the existing building, the massing of the proposed building is altered and extended and does not result in an improvement for the amenities of the adjoining building. However, both the adjoining and existing and proposed developments are in commercial use. Additional onus on the applicant to provide for improvements for internal daylight access at the adjoining building if the

change caused by the proposed building is insignificant would be unwarranted from a planning perspective.

12.7 Intensity of Development.

As stated the applicant's submissions the site has the benefit of most of the criteria identified within the development plan favouring acceptance of high intensity development in view of the central location, the zoning objective and availability of services and facilities, especially the range of public transport options. The increased site coverage and increase plot ratio, and consequently, the extension the building to the rear west side in principle are acceptable even though the existing plot ratio is well in excess of the indicative plot ratio for the Z5 zone in the development plan. Nevertheless, the increase which is less than twenty percent is comparable to plot ratios of a number of recently permitted redevelopments and replacement developments in Dublin 2 and 4 which do not include a residential element. .

12.8 However it is not accepted that the existing building is comparable to a building with seven floors as asserted in the application. The top mansard roof covered level of the existing building is uninhabitable ancillary space which houses plant and equipment. The proposed development in addition to the extension to the west side includes additional floor space in replacement of the roof level plant and equipment in the existing building.

12.9 The proposed change of use providing for café at the ground floor level is a positive element. The reduced parking capacity which is accommodated along with the plant in the basement is also contributory to the sustainability of the development in addition to the design elements that achieve improvements relative to the existing building.

12.10 In principle, there is no objection to the proposed intensity of development subject to all other qualitative considerations being satisfactory and there are concerns about the capacity of the location to accept the massing, size and design of the proposed structure.

12.11 Design, Visual Impact and Architectural Heritage Protection.

The third parties state that the modified design proposal shown in the additional information submission is unacceptable and considerably less satisfactory than the original proposal especially in relation to façade design detail and the upper floor/roof level elements. The planning authority was satisfied that the modifications to the addressed its concerns about consistency with the parameters of the O'Connell Street ACA, to include a sensitive response to the streetscape that is a fine

grain solution contributing to the harmonious whole and maintaining the rhythm of the streets.

- 12.12 Notwithstanding the design mitigation with regard to the positioning of the parapet and the setbacks behind terraces the two top level floors are excessive in height above the parapet line of the proposed building and riverside frontage buildings in the vicinity which have a relatively continuous parapet line. The height in proportion to the front façade and the lower floors is excessive and the raised parapet line at the corner is not effective as an ameliorative measure. While the terrace setbacks may be effective in ameliorating the impact in close range views the disproportionately high setback upper floor element would be over conspicuous in public views of the river frontage and the Hawkins Street frontage from the more distant vantage points. The protection of the views along the Liffey Quays is a specific development plan objective. Acceptance of such significant mass above the parapet line would also give rise to concern about precedent for further similar development along the riverside frontages. This element is not an enhancement even though the existing roof level plant housing is negative in visual impact.
- 12.13 At Hawkins Street, the height of the proposed development against the common boundary with the adjoining building incorporating Leinster Market and the early twentieth century façade and roof which are of special interest is less sympathetic than the existing structure. This is due to the conspicuousness of the selected materials and finishes in combination with the proposed mass and form. Similarly the proposed west facing façade fails to complement or contribute to the enhancement of the streetscape along the west side of Hawkins Street between the Quays and Poolbeg Street the concerns about which are similar to those relating to the effect on the riverside frontage as discussed below.
- 12.14 There is no recognition of or linkage into the rhythm of the street in which the historic narrow plot widths and vertical emphasis in façade treatment especially with fenestration detail are key characteristics. The contention made on behalf of the applicant, possibly with the endorsement of the planning officer that it is appropriate to provide for references to the adjacent buildings by the use of strong horizontally emphasised stone framed windows rather than to the historic plot widths is not an appropriate solution for this prominent corner site. (The combination of some of the materials and finishes selected may be acceptable but the samples available on the site have not been viewed.)
- 12.15 It is accepted that there are relatively recent developments inserted along the Quays, especially further to the east where square shaped windows have little or no recognition of the established pattern of development or integration with the historic a predominant characteristics of the streetscape buildings. It is not considered that these structures enhance or contribute positively to the built environment along the river frontage. It is not accepted that precedent

could be taken from some of these developments given the ACA designations which have come into effect in 2001 for the O'Connell Street ACA, The Liffey Quays Conservation Area and protected views and the recently adopted LAP for the adjoining Georges' Quay area.

12.16 Integration of contemporary design into historic streetscapes with established features and characteristics can be successfully through various options in combinations and ratios of solid to void. In this regard glazed curtain walling as an option should not be dismissed although the observer party's objections to contemporary design in recently completed developments most of which incorporate glazed facades in historic areas of the city have been noted. Good design with use of transoms and mullions with glazed curtain walling can achieve sensitive and clear recognition of vertical emphasis, plot widths, rhythm and fenestration of historic buildings. This option should not be excluded from consideration of alternative combinations of materials and finishes. The established vertical emphasis and rhythm in the streetscape is far more clearly recognised and acknowledged in the design for the facades submitted with original application.

12.17 Massing, form and height for any refurbishment or replacement structure is relatively prescriptive for frontages of Burgh Quay and Hawkins Street given the sensitive built environment and the specific designations and objectives providing for achievement of high standards within the development plan and ACA. As suggested above, with regard to those parameters and the necessity for recognition of rhythm, parapet lines and vertical emphasis there is a broader scope as regards options for materials, finishes, features and details and the ratio for solid to void for elevations in public views.

12.18 Hawkins Street and the Gas Building Leinster Market.

The façade of the building adjoining the appeal site property on Hawkins Street appears to be early twentieth century with a feature Tudor style upper façade and it incorporates Leinster Market which is built over at the upper levels. Notwithstanding the inconclusiveness as to whether the statutory protection for No 26 D'Olier Street extends through and as far as the frontage onto Hawkins Street it is considered that the façade and Leinster Market are of special interest and may well be worthy of statutory protection. It is considered that enhancement of this adjoining structure and façade, group of buildings and streetscape is fully merited in new development.

12.19 The further application to the applicant was to, "demonstrate that the proposed development complies "with the parameters of the O'Connell Street ACA (in particular the Executive summary) in which a pattern of development that responds in a sensitive manner to the streetscape, a fine grain solution that contributes to a harmonious whole and maintains the rhythm of the streets with new development be required to respect

the established scale of existing built fabric in height massing proportion and plot width". Although it is pointed out in the applicant's submissions that discussions took place with the planning authority prior to lodgement of the application and prior to lodgement of the further information submission the modified proposal departs further from what appears to be sought in the further information request than the original design proposal which led the planning authority to issue the request. The original proposal incorporates some recognition of the characteristic predominance of vertical emphasis and has greater compatibility with the plot widths and rhythm in the streetscapes. The modified design is considerably less compatible as in insertion that recognises and integrates with the key characteristics of the established built environment along the river frontage and at the northern end of Hawkins Street

12.20 It is beyond the scope of compliance by condition to seek modifications that would overcome these concerns although there may be scope to consider providing the applicant with an opportunity by means of a section 131 notification. A draft order is set out overleaf indicating a decision to refuse permission on the basis of reasons and considerations relating to negative visual and architectural heritage impact due to the proposed mass, form and design.

12.21 Should a satisfactory modified design be achieved, it is considered likely that the intensity of the development and other considerations would be satisfactory.

13. APPROPRIATE ASSESSMENT SCREENING.

13.1 The applicant provided an appropriate assessment screening report within in the application submission which has been consulted for reference for appropriate assessment screening purposes.

13.2 The site which is at the corner of Burgh Quay and Hawkins Street on the south side of the River Liffey is not within any European sites and is a brownfield, serviced site at a central city location. The proposed development involves demolition and removal off site of construction materials, refurbishments and construction of extensions and alterations. Surface water is to be attenuated and stored at basement level and petrol interceptors are to be installed and one of two options which will achieve attenuation for the 1 in 30 year and 1 in 100 year storm event will be implemented. Foul and surface water will be discharged to the public combined sewer, pumped to Ringsend WWTW and discharged in Dublin Bay.

13.3 The following European sites are within five kilometres of the site:

- 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.

- 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.
- The North Bull Island SPA. [004006]. The conservation objectives are:

Light bellied Brent Goose (*Branta bernicla hrota*) [A046]
[wintering]
Shelduck (*Tadorna tadorna*) [A048]
Teal (*Anas crecca*) [A052] [wintering]
Pintail (*Anas acuta*) [A054] [wintering]

- 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.

- 13.3 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.
- 13.4 The potential source-pathways-receptor linkage is surface and foul water drainage between the site of the proposed development and the European sites. There is linkage between the site and Dublin Bay where 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. Silt, oils and chemicals could be carried into the network discharging to Dublin Bay. No significant effects are predicted due to the nature and scale of the project, the distance from the receiving waters and dilution, absorption and mixing with waters in the river and local drainage network and treatment of at the WWTW.

- 13.5 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.
- 13.6 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.
- 13.7 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 Bull Island SPA. [004006] 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.

14. **CONCLUSION AND RECOMMENDATION.**

- 14.1 In view of the foregoing it is recommended that the appeals be upheld, that the planning authority decision be overturned and that permission be refused on the basis of the Reasons and Considerations set out in the draft order overleaf.

Note:

In the event that permission is granted, inclusion of a condition with requirements for vegetation removal to take place in the non-breeding season, or, in the breeding season, employment of an ecologist to check roof ledges and carpark for breeding gulls and feral pigeons and possible establishment of an exclusion zone in order to avoid disturbances on breeding birds in consultation with the NPWS is recommended, on advice in the Bat and Bird Guidance note provided with the application.

DECISION

Refuse Permission on the Basis of the Reasons and Considerations set out below.

REASONS AND CONSIDERATIONS.

Having regard to the visually prominent and sensitive corner site location:

Within an 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."

Within the historic streetscape along the south side of Quays along the River Liffey Corridor and within the River Liffey Quays Conservation area;

Within the Key Views and Prospects along the riverside the protection of which is a specific objective of the Dublin City Development Plan, 2011-2017;

Within the area of the O'Connell Street and Environs Architectural Conservation Area and,

In close proximity to a number of structures which are included on the record or protected structures,

it is considered that the proposed development is incompatible with and fails to integrate satisfactorily into the established streetscape by reason the size and bulk of the two upper storeys above the established parapet line in proportion to the height of the facades, the lack of recognition in the proposed elevations of the established historical plot widths and vertical emphasis in detail and fenestration on the elevations of the existing streetscape buildings along the southern quays. As a result the proposed development would fail to satisfy the zoning objective for the site location, would fail to enhance and would be seriously injurious to the character and integrity of the O'Connell Street and Environs Architectural Conservation Area, the River Liffey Quays Conservation Area, protected structures within the area and would adversely affect the key protected views and prospects along the River Liffey. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.

JANE DENNEHY,
Senior Planning Inspector
30th May, 2016.