

# An Bord Pleanála



## Inspector's Report

**Appeal Reference No:**

PL 29N.246456

### Development:

Planning permission for development at a 0.125 hectare site at Sackville House, located at Sackville Place, Earl Place and Marlborough Street, Dublin 1. The proposed development comprises of the following: The change of use of the existing 3,281 sq.m gross Sackville House from retail/ commercial use at basement and ground floor level and office use at upper floors, to hotel use at basement, ground and upper floors and retail/restaurant/cafe use in 1 no. unit of 86 sq.m gross at ground floor level, and the provision of an additional 3 no. storeys to the existing building to provide a seven storey building. Setbacks will be provided at sixth and seventh storeys. A terrace will be provided to the north elevation at first floor level and a terrace on the south, east and west elevations at sixth floor level; The proposed hotel will accommodate 158 no. bedrooms, and ancillary facilities including reception/entrance area at ground floor level on Sackville Place, a ground floor bar/cafe/restaurant area, and back of house facilities; Replacement of existing facade with new facade; Extension to existing basement level to provide ancillary/back of house facilities for the proposed hotel; All associated and ancillary works, including all internal works, staff bicycle parking, green roof, public realm upgrades and hard and soft landscaping to Sackville Place, Marlborough Street and Earl Place. The proposed development will provide an overall gross floor area of circa 6,338.8 sq.m, comprising of circa 6,252.8 sq.m hotel floorspace, including all ancillary/associated facilities and basement area, and circa 86 sq.m gross retail floorspace in a seven storey building, including setbacks.

### Planning Application

Planning Authority:	Dublin City Council
Planning Authority Reg. Ref.:	3919/15
Applicant:	Sagrada Ltd.
Planning Authority Decision:	Grant Permission with conditions

### Planning Appeal

Appellant(s):	(i) Wynn's Hotel (ii) An Taisce
Type of Appeal:	Third Party – V - Grant
Date of Site Inspection:	27 <sup>th</sup> July 2016

**Inspector:** Tom Rabbette

## **1.0 SITE LOCATION AND DESCRIPTION**

The application site is located in the centre of Dublin. It forms the southern part of an urban block that is defined by Sackville Place to the south, Earl Place to the west, Earl Street North to the north and Marlborough Street to the east. The site itself has frontage of c. 48 metres length to Sackville Place to the south, c. 23 metres frontage to Marlborough Street to the east and c. 23 metres frontage to Earl Place to the west. There is an existing building on the site. It is estimated to date from the 1970s and can be described as being in the 'brutalist' style. It has four floors of accommodation. There are a number of retail units at ground level but most of these appear vacant. The upper floors also appear vacant and would appear to have been dedicated to office use in the past. The building has a two-storey colonnade along all street frontages. The structures adjoining to the north are occupied by Dublin Bus/CIE. The gable-fronted red-brick building adjoining to the north and fronting onto Marlborough Street is of architectural heritage interest.

## **2.0 PROPOSED DEVELOPMENT**

The applicant is seeking to change the use of an existing building, to carry out significant works to the existing structure and to add three floors.

The existing 4 storey plus basement structure is to have its use changed from retail/commercial/office use to primarily hotel use, a retail/restaurant/café use is also proposed at ground floor level. The structure is to be completely renovated and three additional floors are to be added. The existing basement is also to be enlarged. New facades are proposed. The original submission proposed 158 bedrooms.

The application was accompanied by a Mobility Management Plan, An Engineering Services Report, a Screening Report for Appropriate Assessment, a Planning Sustainability Report, a Visual Impact Assessment, and a Planning Supporting Statement.

The planning authority sought additional information and the applicant submitted amended proposals. The amended scheme proposed 160 bedrooms. Changes were proposed to elevations, principally in relation to treatment of the upper floors of the development along the northern boundary and the Marlborough Street frontage.

## **3.0 PLANNING HISTORY**

2206/96, 3344/97, 2349/12 all can be considered minor in the context of the existing proposal. They related to relatively minor changes to the existing structure on the site (e.g. shopfront changes, entrance changes and change of use of existing unit).

## 4.0 PLANNING AUTHORITY DECISION

### 4.1 Planning and technical reports

#### Planner's Report dated 16/12/15:

- Further information required.

#### Report dated 16/03/16:

- FI response noted and considered.
- Permission recommended subject to conditions.

#### DCC Environmental Health Report dated 06/11/15:

- Conditions recommended.

#### City Archaeologist's Report dated 24/11/15:

- Development within the Zone of Archaeological Constraint for the Recorded Monument DU018-020 (Dublin City).
- Condition recommended.

#### Engineering Department Drainage Division Report 24/11/15:

- No objection subject to conditions.

#### An Taisce Report dated 03/12/15:

- Unsatisfactory in the way the development addresses Marlborough Street.
- Adversely affect the character and setting of the ACA.
- Refers to CDP.
- Height of proposed building is excessive.

#### Transport Infrastructure Ireland Report dated 03/12/15:

- Under the Railway Order Luas fixings are proposed to be located on the existing building façade and a Tram Stop Technical Cubicle proposed to be located adjacent the existing building's east façade.
- Further information required on: Overhead Contact System; Technical Cubicle; Traffic; Public Realm; Construction; Contractor Liaison Meetings; Monitoring, and Indemnity.
- S.49 Metro North levy applies.

#### Roads & Traffic Planning Division Report dated 07/12/15:

- No objection subject to conditions.

Pre-Planning Meetings: PAC 0403/15, PAC 0480/15 and PAC 0238/14. Issues raised included: visual impact; scale; bulk; massing, design and treatment of top two floors, setback, materials to be used, compliance with ACA and SPC, streetscape and zoning.

Objections/observations: Objections/observations on file addressed to the p.a. make reference to the following matters: impact on development potential of property adjoining to the north; excessive density of development; no on-site loading/unloading provision; creation of traffic hazard for pedestrian and vehicles; no consultation with adjoining property owner; overdevelopment; plot ratio; impact on ACA; bulk; mass; height; overshadowing and deprivation of light.

## **4.2 Planning Authority Decision**

By Order dated 21/03/16 the planning authority decided to grant permission subject to 24 conditions.

## **5.0 GROUNDS OF APPEAL**

Wynn's Hotel c/o Cunnane Stratton Reynolds, Land Planning & Design.

The contents of the third party appeal from the above can be summarised as follows:

- The scheme would constitute over-development of the site in contravention of various policies contained in the CDP.
- Excessive plot ratio, bulk and mass.
- The permitted scheme has a plot ratio of 4.8, this exceeds the maximum permitted plot ratio for the area, and for any area in the city, by 60%.
- If the p.a. decision is upheld, the CDP standards would be reduced to irrelevance.
- There is an inadequate mix of uses proposed.
- 98.6% of the floorspace of the scheme is occupied by a hotel, in an area zoned for vertical mix of uses through buildings and horizontal mix of uses along the street frontage.
- Inadequate retail use proposed.
- The site has 70 m of frontage to Marlborough Street and Sackville Place, both designated category 2 shopping streets, however, the scheme only includes one small unit (86 sq.m.) for 'retail/restaurant/café' use.
- It will not protect the primary retail function of Marlborough Street and Sackville Place.
- Lack of active uses at street level.
- A hotel, especially one with limited ancillary uses/services, is not in itself an active use and a hotel lobby will not contribute significantly to the achievement of active frontage.
- The scheme does not line the street edge with development that promotes a high level of activity and animation, the scheme does not comply with the relevant guidance in DMURS.
- Failure to comply with the O'Connell Street ACA.

- The scheme fails to comply with various particular requirements for the redevelopment of the site expressed in the O'Connell Street ACA.
- The scheme constitutes a visually obtrusive and dominant form of development in its context and therefore is not compliant with CDP policy on development in ACAs.
- The existing 'brutalist' style building on the site represents a relatively recent architectural era/style and one which is perhaps not yet appreciated in Dublin.
- The proposed scheme is far less in keeping with the massing and architectural expression on the street than the existing building.
- Inappropriate hotel concept.
- The budget hotel concept is illustrative of a lack of ambition for the site and the north city centre retail, commercial and cultural core.
- The description of the scheme as a boutique hotel is inaccurate and the plans submitted are more reflective of a budget hotel.
- The Board is urged to refuse permission for the development.

### An Taisce

The contents of the third party appeal from the above can be summarised as follows:

- The proposed development, on account of its excessive height and its inappropriate design in how it relates to Marlborough Street, would be contrary to the provisions of the CDP on protected structures, ACAs and land-use zoning and would be in conflict with the guidance of the Architectural Heritage Protection Guidelines.
- The site lies directly east of Clery's Department Store, a protected structure.
- The appellant refers to Policies FC30, FC31 and FC41 relating to protected structures and ACAs.
- The site is within the O'Connell Street & Environs ACA, an important civic and ceremonial area within the city centre which was the first ACA to be designated in the State.
- The appellant cites s.17.10.8 and policies FC26, SC2 and FC28 of the CDP.
- While the revitalisation of the site is welcome, it is considered that there are significant scale and design issues with the proposed development that need to be addressed.
- The Marlborough Street façade needs to be more clearly expressed as a formal elevation.
- The height is excessive at seven storeys, coherent and consistent heights are a central defining characteristic and attraction of Dublin's inner city streets.
- The development would result in a sudden jump in scale producing a visually obtrusive and dominant building which would not protect the character and setting of the statutory ACA.
- A four storey parapet to Marlborough Street with potential for two carefully setback floors is the appropriate response at the application site.
- The scheme should be refused permission or amended.

## **6.0 RESPONSES/OBSERVATIONS TO GROUNDS OF APPEAL**

### **6.1 Planning Authority response**

In a letter to the Board dated 11/05/16 the p.a. indicated they have no comment to make in relation to the appeals, the Board is referred to the Planner's Report already on file.

### **6.2 First party response**

Applicant's response to the grounds of appeal can be summarised as follows:

- The site is located directly adjacent to the Marlborough Street Luas stop on the Cross City Line (currently under construction).
- The proposed development fully addresses the points raised in the ACA relating to the existing building on the site.
- The applicant describes the receiving environment.
- The surrounding area is currently subject to significant investment and regeneration.
- The massing, design and materials, particularly on the east and north elevations, were the subject of amendment at FI stage.
- The proposed hotel is intended to be a high quality budget hotel which will offer affordable prices in this key city centre location.
- The hotel use will underpin the regeneration of this part of Marlborough Street and will bring in the region of 300 people to the building on a daily basis.
- This street level activity will be of significant value to the area.
- In addition to a ground floor retail/restaurant/café unit, the proposal includes extensive glazing at ground floor in order that the hotel can interact at street level.
- The overall height and massing has been carefully considered.
- The applicant explains the design approach relating to the setback at the upper levels.
- The upgrade of the public realm will assist with improving the desire line between the proposed Luas Stop and O'Connell Street.
- The applicant refers to the national, regional and local planning policy context in support of the proposal.
- The proposed development offers the opportunity to significantly improve the appearance of the building and to contribute positively to the character and appearance of the surrounding area and ACA.
- The applicant responds to the appellants' reference to CDP policies.
- A holistic approach must be adopted to CDP interpretation, including having regard to economic development [policies, policies and objectives encouraging more hotel development in the city and policies seeking urban regeneration and renewal.
- The development is in accordance with the building height policy of the CDP.

- The building height strikes an appropriate balance between maximising the potential of this significantly underutilised site in close proximity to existing and proposed high quality public transport and respecting the character, appearance and scale of the surrounding area.
- There are a number of other taller buildings along Marlborough Street, including the Irish Life Centre, the seven storey DIT building to the north on the street and the eight storey Telephone House building to the north on the street.
- In relation to plot ratio, there are excellent existing and proposed public transport connections to the site.
- The site coverage is 81%, the indicative figure in the CDP is 90%.
- The development will help uplift the street and will benefit the other businesses in the area.
- The development has been carefully designed to accommodate active frontages onto Sackville Place and Marlborough Street.
- The operation of the hotel is entirely a matter for the owner of the site and is not a valid planning consideration.

### 6.3 Further responses

Wynn's Hotel c/o Cunnane Stratton Reynolds, Land Planning & Design.

The response from the above third party to the applicant's response to the grounds of appeal can be summarised as follows:

- The applicant's response does not address the appellant's concerns.
- No residential use and effectively no mix of uses.
- Development cannot be considered to comprise comprehensive redevelopment.
- Even if some degree of leeway to the plot ratio is warranted by the proximity to the Luas the exceedance of the maximum by 60% is certainly not warranted.
- The applicant and the p.a. Planner have erred in categorising a hotel lobby as an active use.
- The development is an inappropriate, non-compliant use.
- The development does not deliver on the objectives of the ACA.
- The appellant refers to the O'Connell Street & Environs – Scheme of Special Planning Control.

### 7.0 POLICY CONTEXT

The operative plan for the area is the Dublin City Development Plan 2011-2017. The site is located in an area where the land use zoning objective is Z5 as indicated on Map E of the CDP. Other relevant provisions of the CDP include:

S.9.4.8 – Tourism: Visitors, International Education, Conventions

S.15.3 – Policy Approach

S.15.10.5 – Land Use Zoning Objective Z5 – City Centre

S.17.6.2 – Definition of a High Building  
S.15.1 – Zoning Principles  
S.7.2.5.1 – Promoting Sustainable Development in Conservation  
S.7.2.5.2 – Protected Structures and the Built Heritage  
S.7.2.5.3 – Conservation Areas  
S.10.5.2 – Primacy of the City Centre & Retail Core Area  
S.10.5.3 – Character Areas  
S.17.10.8 – Development in Conservation Areas and Architectural  
Conservation Areas

(Copies of the above extracts are in the attached appendix for ease of reference for the Board.)

## **8.0 ASSESSMENT**

I have examined all the plans, particulars and documentation on file. I have carried out a site inspection. I have had regard to relevant provisions of the statutory development plan for the area. In my opinion the main issues arising are:

- Mix of Uses and the Development Plan
- Impact on a protected structure & Sackville Place
- Impact on Marlborough Street
- Appropriate Assessment

### Mix of Uses and the Development Plan

- 8.1 It is held by one appellant that the proposed development fails to comply with the CDP policy requiring a mix of uses both vertically through the floors of the building and horizontally along the street. It is held by the appellant that the retail/restaurant/café unit is a token gesture with the hotel use accounting for some 98.2% of the floorspace. It is also held that for a mixed use urban quarter to function properly, it must have a significant residential component.
- 8.2 The site is located in an area where the land use zoning objective is Z5. A hotel use is a 'permissible use' for such zoned lands as indicated in section 15.10.5 of the CDP. That section does state, as referred to by the appellant, that the mix of uses should occur both vertically through the floors of the building and horizontally along the street frontage. However, the section does preface that sentence with the word "ideally". In this instance I do not consider it practicable to deliver a mix of uses both vertically and horizontally through this site. In any event, while there is a hostel use along Marlborough Street I note that there is no hotel use currently in the urban block in which the site is located as defined by Marlborough Street to the east, Sackville Place to the south, Earl Place to the west and Earl Street North to the north, the application is now proposing to introduce such a use to that urban block and that, in my opinion, is to be welcomed. Currently there is no hotel use along



Sackville Place or for the entire length of Marlborough Street. It is stated in section 15.10.5 of the CDP that the primary purpose of the Z5 zone is to sustain life within the centre of the city with a strategy to provide a dynamic mix of uses which sustains the vitality of the inner city both day and night. The proposed development is introducing a new use to this site and street which will provide for both day and night time occupancy and usage, in that regard, I consider that the proposed development is delivering upon the primary purpose of the land use zoning objective. This site, and the streets it fronts onto in the heart of the capital city, are underutilised and underperforming and have been for decades, the proposed development will start to address that problem, that is to be encouraged. The CDP makes many references for the need to consolidate the city centre.

- 8.3 Section 9.4.8 of the CDP relates to tourism and visitors to the city. Attracting visitors to the city is recognised as being crucial to the economic success of the city. The proposed hotel use in the heart of the city is supported by a number of the policies and objectives listed under that s.9.4.8.
- 8.4 Part 2 of the 'Scheme of Special Planning Control – O'Connell Street & Environs 2016' refers to maximising the use of buildings. The application site in its current condition is underutilised. One of the key objectives of the SPC is to seek the more intensive use of the upper floors and basement levels of buildings in the area. I consider that the proposed development is delivering on that objective. The SPC has a general objective to seek the redevelopment of vacant, underutilised and underperforming sites. Again, I consider that the proposed development is delivering upon that general objective.
- 8.5 Having regard to the forgoing I do not consider that the proposed development conflicts with the land use zoning objective for the area, on the contrary, the proposed uses are supported by a number of policies and objectives of the CDP and the SPC.

#### Impact on a protected structure & Sackville Place

- 8.6 The application site is immediately to the east of a protected structure. As per the RPS and Map E of the CDP, Clery's (former) Department Store to the west of the application site is a protected structure (RPS ref: 6003).
- 8.7 One of the appellants (An Taisce) has raised concerns about the impact the proposed development will have on this neighbouring protected structure. The appellant cites policies FC30, FC31 and FC28 in relation to the protected structure. The height of the proposed structure and its proximity to the protected structure form the basis of the concern here and the appellant refers to the 'Architectural Heritage Protection – Guidelines for Planning Authorities' in its submission (specifically sections 13.8.2 and 13.8.3 of the Guidelines).

- 8.8 The proposed development and the application site do not immediately abut or adjoin the protected structure and its associated site. The application site is on the eastern side of Earl Place and Clery's is on the western side of that lane. In my opinion the critical views in terms of protecting the setting of the protected structure are those from O'Connell Street, specifically where Clery's is in the foreground and the proposed development is in the background. In that regard, there are limited views from O'Connell Street where both Clery's and the proposed hotel are both visible in the one view. These viewpoints are from O'Connell Street and to the south-west of the protected structure where views down Sackville Place can be seen. I refer the Board to 'view 8' in the Visual Impact Assessment' submitted to the p.a. on the 30/10/15. I concur with the assessment of that visual impact as being 'slight' in the associated assessment carried out by ARC Architectural Consultants Ltd. Even if one considers the critical viewpoints as being from Sackville Place looking west with the proposed hotel in the foreground and Clery's in the background I do not consider that the proposed development adversely impacts on the character or setting of the protected structure. I am of the opinion that the proposed development actually improves the setting for the protected structure along Sackville Place as the application site in its current condition detracts from that setting.
- 8.9 The 'shoulder height' of the proposed development fronting onto Sackville Place is consistent with the height as existing at Clery's where it addresses Sackville Place. The Sackville Place façade of the proposed development has a 'shoulder height' of 5 storeys with the two top floors set back from this front façade. This 5 storey 'shoulder height' is consistent with the Sackville Place side elevation of Clery's and lower than the primary façade of that protected structure i.e. its façade fronting onto O'Connell Street, I refer the Board to the 'Sackville Place Elevation' on drg. no. 2014.67.P003 submitted to the p.a. on the 23/02/16. The building immediately to the south of Clery's at the corner of O'Connell Street and Sackville Place is also 5 storeys (this is also a protected structure). The DIT College of Tourism across Sackville Place from the site is 4 storeys. I would acknowledge that there is a variety of building heights along Sackville Place ranging from small scale 2 and 3 storey structures up to larger scale 4 and 5 storeys. The parapet height of the Irish Life Centre where it fronts onto Marlborough Street and is clearly visible down Sackville Place is not dissimilar to the proposed 'shoulder height' of the hotel, I again refer the Board to the Sackville Place contextual elevation in that regard.
- 8.10 Given the variety of heights of existing buildings along Sackville Place I am of the opinion that the Sackville Place elevational treatment of the proposed development in terms of height is acceptable and would not adversely impact on the visual amenity of that street. Given the proposed 'shoulder height' of the Sackville Place elevation and the separation distances between the application site and Clery's protected structure, and also noting the critical viewpoints when both structures will be visible in the one view, I do not

consider that the proposed development would adversely impact on the character or setting of that neighbouring protected structure.

- 8.11 The proposed development will rejuvenate and reinvigorate almost the entire half of the northern side of Sackville Place. With the proposed Luas Stop on Marlborough Street at the eastern end of this street and O'Connell Street at the western end, this rejuvenation is to be welcomed making this public street more attractive to pedestrians. I note but disagree with one of the appellant's concerns regarding the lack of 'active uses' being proposed at street level. The street elevation, and its day and night time usage, will improve the sense of security here. There are large glazed sections proposed at street level along Sackville Place and again at the Sackville Place/Marlborough Street junction. The elevational treatment of the corner is appropriate, in my opinion, and will help establish a 'gateway' building off Marlborough Street and onto Sackville Place adjacent the Luas Stop. This corner treatment which addresses both streets is an appropriate response in urban design terms, in my opinion, and I do not agree with one of the appellant's when it is stated that the building presents a side elevation to Marlborough Street creating an inappropriate emphasis at the corner with Sackville Place. I consider that the proposed development appropriately addresses both of these streets equally, it is a corner site and the design treats it as such.

#### Impact on Marlborough Street

- 8.12 The appellants hold that the proposed development is unsatisfactory in the way it addresses Marlborough Street. It is held that the height at 7 storeys is excessive for the location on Marlborough Street. It is stated that the proposed 7 storey height within a predominantly 4 storey historic streetscape would result in a sudden jump in scale producing a visually obtrusive and dominant building which would not protect the character and setting of the ACA. It is described as an abrupt transition in scale with the adjoining historic terrace on Marlborough Street and with the street vista generally.

The concerns here are not baseless, in my opinion. Developing a 7 storey structure at the end of a predominately 4 storey terrace in an ACA is not without design challenges. The p.a. were clearly concerned too in relation to this specific matter and sought FI in relation to it. This aspect of the design proposal, at first appearance, is not the most robust part of the overall scheme, in my opinion. An assessment of the entire street frontage in the submitted drawings at a scale of 1:200 clearly gives weight to the appellants' concerns here. However, the proper planning and sustainable development of an area often requires striking a balance between sometimes competing demands. Furthermore, how a building is perceived from street level in a city context often differs from a scaled drawing in an application.

- 8.13 I would note that the oblique views from street level, along Marlborough Street, that include views of the upper floors, are the critical viewpoints here.

- 8.14 The elevation of the proposed development onto Sackville Place is 5 storeys at its 'shoulder height' with the top two floors above stepped back. Similarly, the elevation onto Marlborough Street adjacent the existing terrace to its north has a 'shoulder height' of 4 storeys reflecting the scale of the terrace to the north, the top three storeys then step back both from the Marlborough Street frontage and from the northern boundary with the CIE owned structures. This treatment is not wholly dissimilar to the Irish Life Centre across the street from the site. There the 'shoulder height' is also 4 storeys with a 5<sup>th</sup> storey set back above and the height on that site steps up again further back into the site.
- 8.15 The applicant does establish a visual relationship with the terrace to the north along Marlborough Street with the 4 storey 'shoulder height' element that is to be finished in brick. Several of the buildings to the north here are finished in brick, including the two immediately to the north. Some of the structures further north in this block fronting Marlborough Street are missing parts of their upper floors while others still further north are vacant or underutilised. Allowing these structures to dictate or significantly delimit development on the application site is not in the best interests of the proper planning and sustainable development of this area in my opinion. Somewhat ironically the impact of the oblique views of the top floors of the proposed development taken from viewpoints on Marlborough Street looking south to the application site are greatly assisted, and therefore exaggerated, by the gaping holes in the upper floors of these existing buildings, I refer the Board to 'View 4 – Revised' received by the p.a. on the 23/02/16. If the holes didn't exist more of the upper floors of the north-facing elevation of the proposed development would not be visible from the public domain.
- 8.16 The proposed development would appear to be the first major redevelopment proposal in this urban block for quite some time. The intensity of development proposed here stands in contrast to the underutilisation of buildings in the area, particularly along Marlborough Street. The consolidation and densification of urban centres is supported by national, regional and local planning policies and objectives. Underutilisation and vacancy is contrary to those policies and objectives. This site is in the heart of the city. It is right beside the Marlborough Street Luas Stop on the Green line which is to be commissioned in 2017 and it is around the corner from the Abbey Street Luas Stop on the Red line. It is within walking distance of two national transportation hubs, being Connolly Station and Busarus. It is c. 60 m west of O'Connell Street. In such a context, I am not convinced that suppressing the height, and thus suppressing the intensity of development on this site, is in the best interests of the proper planning and sustainable development of the area.
- 8.17 The CIE buildings adjoining immediately to the north and facing Marlborough Street are of architectural heritage interest, they are recorded on the NIAH (ref: NIAH no. 50010264, see attached appendix), however, they are not on

the RPS. There is an observation on file addressed to the p.a. from CIE. While concerns are raised in that submission, the concerns relate to the impact the proposed development may have on the development potential of the site adjoining to the north, the concerns are not related to architectural heritage protection impacts. It should also be noted here that the O'Connell Street ACA states at page 80: "94-98 Marlborough Street comprises five one and two storey buildings of little architectural merit, a number of these buildings are in poor condition and have missing upper floors. It is recommended that they be demolished and replaced with a number of four to five storey buildings providing for commercial office and/or residential uses on the upper floors, with a mix of retail/restaurant/café/gallery space at ground floor level." These are the structures immediately north of the CIE buildings. Buildings with a 5 storey street frontage at this location would further help integrate the proposed development at the end of this terrace when viewed from Marlborough Street from both the north and south of the site.

- 8.18 I note also one appellant's comparison of the proposed development with that of the DIT College extension towards the northern end of Marlborough Street where it abuts a historic terrace. The appellant considers that DIT extension an abrupt transition in scale adjacent the terrace. The dwelling adjoining that DIT extension to the south is a protected structure, in fact the terrace of some 7 dwellings immediately to the south of that DIT extension are all on the RPS. There is no protected structure adjoining the application site and the nearest protected structure in the Marlborough Street terrace adjoining the site to the north is some 45 metres from the application site. Notwithstanding the appellant's comments in relation to the DIT College building, that building, and other buildings such as Telephone House and the Irish Life Centre, do arguably form some degree of precedent for the scale of development along Marlborough Street.
- 8.19 Consideration has to be given to the CDP building height policy in relation to this matter also. The applicant is proposing a 7 storey commercial structure with a maximum height of c. 24 metres. The CDP policy for this city centre location applies a maximum height of 7 storeys commercial with a maximum height of 28 metres (ref: s.17.6.2). The proposed development at 24 metres height is 4 metres below the maximum allowed as per the CDP, this is not insignificant, in my opinion.
- 8.20 The applicant's proposals in relation to the redevelopment of this existing 'brutalist' style structure on the site does deliver on a number, although not all, of the recommendations as contained in the ACA for this particular site (ref: pages 79-80 of the O'Connell Street ACA)
- 8.21 Architectural heritage protection is a most valid concern in this appeal given, *inter alia*, the ACA designation. Planning, as stated previously, often entails striking a balance between competing demands. The applicant has not ignored the historic context of the site. The proposal does seek to establish a

relationship with the terrace along Marlborough Street, it does seek to address the established scale. The design could have gone further in that regard. Indeed, it is open to the Board to further address this specific concern relating to the upper floors by removing one, or even two of them, by way of condition. However, given: the city centre site location; proximity to public transportation infrastructure; the clear need for rejuvenation, consolidation and densification of development in this part of the city, the ACA comments in relation to nos. 94-98 Marlborough St. to the north of the site, and also having regard to the CDP building height policy, I am willing to accept that the applicant's deference to the architectural heritage of the area is sufficient and strikes a reasonable balance between competing demands. There are clear planning gains in the proposal. I would therefore not recommend refusal in relation to this matter and am not convinced of the need to remove floors by way of condition.

#### Appropriate Assessment

- 8.22 There is a screening report for Appropriate Assessment on file as prepared by the applicant's agent. It concludes with a finding of no significant effects in relation to the integrity of the Natura 2000 network.
- 8.23 Having regard to the nature and scale of the development proposed and to the nature of the receiving environment, namely an urban and fully serviced location, no appropriate assessment issues arise.

#### Other issues:

- 8.24 I note the submission from CIE to the p.a. raising concerns effectively about the impact the proposed development may have on the development potential of the adjoining site to the north in its ownership. The proposed development does not propose windows right up to that shared boundary. The north facing windows are pulled back from the shared boundary effectively allowing for the creation of a lightwell should that adjoining site be developed in the future. I therefore do not consider that the proposed development adversely impacts on the development potential of that adjoining site.
- 8.25 Given the nature of the receiving environment, the city centre location and also noting that the proposed structure is on the north side of Sackville Place, I do not consider that the proposed development would have an adverse impact on adjacent properties by reason of overshadowing or impact on access to daylight.
- 8.26 There is a report on file from TII (dated 03/12/15) seeking FI on a number of issues relating to fixtures and fittings on the site as granted under the Railway Order relating to the Luas Cross City project. However no FI was sought by the p.a. in relation to those specific issues. I would recommend a condition relating to this issue should the Board be disposed to a grant of permission.

- 8.27 That TII report also sought the application of a s49 Metro North levy in the event of a grant of permission and that was subsequently applied by the p.a. in its decision dated 23/03/16. It is unclear at time of writing if the p.a. is still applying the Scheme, the Board may wish to clarify the status of the s.49 Scheme prior to its decision.

## 9.0 CONCLUSIONS AND RECOMMENDATION

I recommend that the Board grant permission for the proposed development subject to the conditions as indicated below.

### REASONS AND CONSIDERATIONS

Having regard to the Z5 land use zoning objective for the site in the Dublin City Development Plan 2011-2017, other policies and objectives of the Development Plan for the area, the contents of the O'Connell Street Architectural Conservation Area 2001 and the associated O'Connell Street & Environs Scheme of Special Planning Control 2016, and also having regard to the pattern of development in the area, the site location in the city centre, and proximity to public transportation infrastructure, it is considered that, subject to compliance with conditions below, the proposed development would not seriously injure the amenities of the area or of property in the vicinity, would not adversely impact upon the architectural heritage of the city centre, would not be prejudicial to public health and would be acceptable in terms of traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

### CONDITIONS

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application as amended by the further plans and particulars submitted on the 23<sup>rd</sup> day of February 2016, 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. Details including samples of the materials, colours and textures of all the external finishes to the proposed building shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

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

3. Details of all external shopfronts and signage shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development.

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

4. The glazing to the ground floor level of the hotel and the retail/restaurant/café unit hereby permitted shall be kept free of all stickers, posters and advertisements.

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

5. No external security shutters shall be erected on any part of the premises unless authorised by a further grant of planning permission. Details of all internal shutters shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

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

6. Details of the upgrade works to the public realm along Earl Place, Sackville Place and Marlborough Street, including new paving, kerbs, loading bay layout and tree planting, shall comply with the detailed standards of the planning authority for such works and shall be agreed in writing with the planning authority prior to the commencement of development.

**Reason:** In the interests of amenity and traffic and pedestrian safety.

7. The mobility management measures as identified in the 'Mobility Management Plan' received by the planning authority on the 30<sup>th</sup> day of October 2015 shall be implemented in full and maintained to the satisfaction of the planning authority.

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

8. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.



This plan shall provide details of intended construction practice for the development, including hours of working, noise management measures and off-site disposal of construction/demolition waste.

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

9. Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

**Reason:** In the interest of public health.

10. Prior to the commencement of development the applicant shall submit to, agree in writing with, the planning authority detailed design proposals for both the construction and operational stage of the proposed development to facilitate the construction and operation of the Luas Cross City project located to the east of the site. The detailed design proposals shall include, *inter alia*, proposals for the supports for the Luas Overhead Contact System, proposals to facilitate the installation of, and continued access to, the Luas Cross City Technical Cubicle, and the appointment of a Liaison Officer to coordinate development on the site relative to the Luas Cross City works.

**Reason:** To facilitate the construction and operation of the Luas Cross City project located to the east of the application site.

11. The developer shall facilitate the preservation, recording and protection of archaeological materials or features that 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,

- (b) employ a suitably-qualified archaeologist who shall monitor all site investigations and other excavation works, and

- (c) provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove.

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 site and to secure the preservation and protection of any remains that may exist within the site

12. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

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

13. The developer shall pay to the planning authority a financial contribution in respect of the Metro North project in accordance with the terms of the Supplementary Development Contribution Scheme made by the planning authority under section 49 of the Planning and Development Act 2000. The contribution shall be paid prior to the commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to the Board to determine the proper application of the terms of the Scheme.

**Reason:** It is a requirement of the Planning and Development Act 2000 that a condition requiring a contribution in accordance with the Supplementary Development Contribution Scheme made under section 49 of the Act be applied to the permission.

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Tom Rabbette  
Senior Planning Inspector  
27<sup>th</sup> July 2016