



An
Bord
Pleanála

Inspector's Report PL29S.247059

Development	Office Development incorporating demolition of existing rear structures and construction of new building facing onto Montague Lane with linkage to and works at No 10 Harcourt Street, (Protected Structure.)
Location	10 Harcourt Street and 10/11 Montague Lane), Dublin 2.
Planning Authority	Dublin City Council.
Planning Authority Reg. Ref.	2942/16.
Applicant	Mr. Weiyu Wu.
Planning Authority Decision	Refuse Permission.
Type of Appeal	First Party
Appellants	Mr. Weiyu Wu.
Observers	<ol style="list-style-type: none">1. Hilda Gleeson2. Irish Georgian Society3. Kennedy Art4. Ultan and Conor Kennedy
Date of Site Inspection	7 th November, 2016
Inspector	Jane Dennehy.

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1.0 Site Location and Description.

- 1.1. The site which has a stated area of 678 square metres is that of a late eighteenth century terraced four storey over basement three bay townhouse with a basement and single storey return level Georgian house on the west side of Harcourt Street and unoccupied warehouse buildings facing onto Montague Lane.
- 1.2. The front window of No 10 Harcourt Street was removed and replaced with a shopfront window and the granite steps, plinth and railings have also been removed and replaced with timber decking and a covered over access to the basement and black painted iron railings. The main entrance door, door case and fanlight are intact. Surviving historic fabric includes joinery and plasterwork frieze Cornicing hall and front room and landings and a Chinoserie staircase.
- 1.3. The ground floor is in use as a restaurant (Di Luca). The basement was formerly in part use as a private club and the upper floors in office use. A retail unit is located at ground floor level at No 11 and a design studio at ground floor level and office space above at No 9 Harcourt Street. This property also has a return at the rear on the northern side boundary.
- 1.4. Unoccupied 'L' shaped commercial buildings which face onto Montague Lane, formerly the service lane to the rear and a disused pre-fabricated structure are within the rear section of the site which is part of the historic curtilages of No 10 and the adjoining Georgian house at No 11 Harcourt Street.

2.0 Planning History:

- 2.1. P A. Reg. Ref. 5601/07: Permission was granted for demolition of the existing structures at Nos 10 and 11 Montague Lane and construction of a four storey office block over ground level parking with access from Montague Lane. (The grant of permission lapsed in 2013.) Permission was granted for amendment to the previously permitted development at Nos 10 and 11 Montague lane under P A. Reg. Ref. 1502/08 and P A. Reg. Ref. 1932/08. The amendments to the previously

permitted development incorporate and increase in total floor area to 1,609 square metres from 1,221 square metres.

- 2.2. P. A. Reg. Ref.2661/14: This was an application for demolition of existing development at No 10 and 11 Montague Lane and construction of a four storey office block over basement car parking which was undetermined. (A response to a request for additional information had not been received by the planning authority.)

3.0 The Planning Application.

- 3.1. The application indicates proposals for:

Alterations and adaptations to the original eighteenth century house for modern office use,

Demolition of the mid twentieth century buildings at the rear facing onto Montague Lane and,

Construction of a purpose built four storey over basement office block interconnected at ground and basement levels with the original, adapted townhouse at No 10 Harcourt Street.

- 3.2. The application is accompanied by a conservation method statement which includes a photographic record and method statement providing for interventions to fabric including some historic fabric at No. 10 Harcourt Street. An undertaking for recording prior to commencement works is indicated in the method statement.
- 3.3. The application is also accompanied by a flood risk assessment report according to which the sewerage network is prone to inundation during high rainfall and it is proposed to attenuate storm water discharge to a maximum of 2l/s for the 100 year return period.
- 3.4. According to the lodged plans, the first, second, third and fourth floors and part of the basement level are to be in modern office use. In the new build, car parking (three spaces) and cycle parking along with plant and equipment is shown at basement level with the remaining space in both structures being in office use. A roof terrace

is also shown overlooking Montague Lane on the west boundary at third floor level and inaccessible terrace along each side of the setback level.

- 3.5. The total stated floor area is 2,888 square metres, comprising 2,307 square metres (new build) and 581 square metres within existing house and the stated site coverage is one hundred per cent with a plot ratio of 3.38.
- 3.6. The interventions proposed for to the eighteenth century townhouse includes demolition and removal of original historic fabric including original rear elevation ground and basement level walls and later additions.
- 3.7. Timber sash windows are to replace existing windows in front and rear elevations, repointing works, repair and re slating of the roof in blue black slates and repair to the door case and door are proposed. Works to the wall at No 11 Harcourt Street facilitating the proposed development are also indicated.
- 3.8. The ground floor shopfront is to be replaced with glazing in a bronze frame, illuminated lettering and a small class canopy. Alterations at the front include removal of the raised terrace and railings and installation of PART M compliant frontage granite steps and sets are also indicated.
- 3.9. Removal of original fabric in the return and at basement and ground level creating a new ground level are included in the proposal to facilitate the interconnection with the new build. New build includes a finish in Kilkenny blue limestone with *brise soleils* and panels in black aluminium frames.

4.0 Decision of the Planning Authority

- 4.1. By order dated, 12th August, 2016 the planning authority decided to refuse permission on the basis of the two reasons reproduced in full below:

(1) "No 10 and No 11 Harcourt Street are protected structures part of a significant architectural terrace within the historic Georgian core of Dublin's south inner city. The proposed development by reason of its design, scale, bulk, massing, excessive site coverage and plot ratio and close proximity to these structures would have an unacceptable negative impact on the surviving architectural significance and setting as well as the wider

streetscape, The proposed development would therefore be inconsistent with polices FC 26 and FC 28 of the Dublin City Development Plan 2011/2017 which seek to protect and conserve the built heritage of the city in accordance with the Architectural Heritage Protection Guidelines for Planning Authorities 2004. The works to the protected structure including changes to the front elevation, removal of railings and interventions both internally and to the rear would be contrary to Section 17.109.2 of the City Development with respect to standards for development within the curtilage of the protected structure. The proposed development would also be contrary to the A8 zoning objective which aims to “protect the existing architectural and civic design character to allow only for limited expansion consistent with the conservation objective and would therefore be contrary to the proper planning and sustainable development of the area.”

- (2) *“The proposed new office building fronting Montague Lane, due to its design, height, massing and scale would have an unacceptable negative impact on the amenity of the adjoining protected structures and neighbouring properties in terms of overbearing impact, diminished setting and loss of privacy. The proposed development would set undesirable precedent for similar development in Z8/Z5 areas and as such would be contrary to the proper planning and sustainable development of the area.”*

5.0 Submissions and Observations

An Taisce. (prescribed body)

- 5.1. It is noted that Harcourt Street is part of international significant ensemble of reasonably preserved 18th century streets and squares of the Georgian Core despite intervention of the 1970s and 1980s.

Refusal of permission is recommended on the basis that owing to the scale and bulk on the mews lane and proximity to the rear of the houses the proposal amounts to overdevelopment, is contrary to several provisions of the Dublin City Development Plan, 2011-2017 on protected structures and architectural heritage protection, amalgamates traditional plots and affects the traditional proportions, scale, the curtilage and grain of the mews lane.

6.0 Third Party Objections.

6.1. Objections received at application stage from several parties to the proposed development primarily on grounds relate primarily to overdevelopment, impact on protected structures, urban grain and established character of the area, overlooking and overshadowing and adverse impact on residential amenity. These parties lodged objections at appeal stage which are outlined in Section 9.

7.0 Internal Technical Reports.

7.1. The report of the Conservation Officer indicates a recommendation for refusal of permission on grounds that:

- The new build to the rear overwhelms the surviving architectural significance of the protected structures and the wider streetscape due to scale, mass and close proximity to the rear of the historic terrace.
- There are specific concerns about proposals for removal of the ground floor with original openings; the lowering of the ground floor front room to street level and removal of the space to the front. The transition in level can be accommodated externally with provision for a contemporary space to the front supporting the shopfront entrance without intervention to historic fabric.
- The new build affects the amenity and aspect of the historic build due to scale and proximity.

- The encroachment at the basement is inappropriate in removing original basement configuration, light ventilation drainage. Underpinning of the protected structure is not supported by the conservation officer. The building line of the returns at the rear of the protected structures are affected.
- The new build breaks rank with the coach lane in height and scale and undermines potential of residential development. The elevation to the new build is overambitious to the detriment of the streetscape and disrupts the character and hierarchy of the Georgian terrace.

- 7.2. The report the City Archaeologist contains a recommendation for an archaeological monitoring condition, the location being within a are of archaeological interest.
- 7.3. The report to the Roads and Traffic Planning Division indicates no objection subject to conditions which include a requirement for a compliance submission for the proposed car lift accessing the basement carpark and conditions relating to construction management.
- 7.4. The report of the Drainage Division indicates no objection subject to standard conditions.
- 7.5. The report of the Planning Officer indicates concern about solid to void ratio for the elevation onto Montague Lane, removal of railings to the front and the interface with the street, the extent of interventions and works at then existing building to be retained including works abutting historic fabric at No 11 Harcourt Street and, conflict with both zoning objectives Z5 and Z8. She notes the limited expansion allowed for on Z8 lands and the transitional location with regard to height and impact on the existing Harcourt Street and Montague Lane structures. Flexibility in application of the plot ratio and site coverage indicative ratios is supported in this instance but not to the extent provided in the proposal. Having taken into account the objections from third parties and the recommendations of the conservation officer, the decision to refuse permission was recommended by the planning officer.

8.0 The First Party Appeal.

8.1. An appeal was received from PLUS Architecture on behalf of the applicant on 8th August, 2016. According to the appeal the assessment by the planning authority is reliant on selective interpretation of the development plan, and is deficient because the application was not sufficiently understood and appreciated. The proposal is a positive well considered design response which enhances many feature and incorporates guidance of the conservation officer. The case made in the appeal can be outlined as follows:

- The site has previously been subject to insensitive development including removal of historic fabric. The design team seeks to re-image the building within the constraints and enhance feature of note and add complimentary new structures. It is an appropriate and imaginative re-use. It includes the removal of the frontage, the timber deck and modern railings which are unsympathetic and enclose the light well to the basement.
- Few original features remain internally and notable exceptions recorded in the method statement with their retention being proposed the shop use and
- The warehouse is poor quality and not suitable for re-use. The lane needs activity and passive surveillance.
- Benefits not acknowledged by the planning officer include the full internal and external refurbishment of No 10 with rooms left in original proportion and feature enhanced such as the plasterwork in the *piano nobile* and excavation of vaulted cellars and their refurbishment and re-use.
- The application provides for sustainable land use in a serviced accessible central site providing for employment, public realm upgrade at high quality and the proposed shop window arrangement is a response to an existing façade alteration.
- The rear access lane upgrade is sensitive response provides a security profile with passive surveillance and activity.
- A similar development was permitted in 2007 where these benefits were recognised.

- The response from the planning authority is facile. It is difficult for this significant site to be moved forward into creative re-use in the context of the planning authority assessment. With critical analysis, the positive improvement and appropriate design can be recognised and the development can be permitted.

9.0 Observations on the Appeal.

Observer submissions were received from four parties and outline summaries of each of the submissions follow:

9.1. 1 Ms. Hilda Gleeson.

A submission was received from Declan Brassill on behalf of Ms Gleeson who is the owner of No 9 Harcourt Street on 5th September 2016 in which support for the decision to refuse permission and the comments of the conservation officer and planning officer is expressed. According to the submission:

The proposed development is gross over-development in an unsympathetic scale proportion and detail in relation to the protected structures, mews lane character of Montague land and historic fabric and is contrary to the transitional Z8 zoning objective and the related specific development plan policy objectives.

The concerns indicated the further information request (P, A. Reg, Ref, 3661/14 refers) on the prior application are exacerbated by increased quantum, excessive coverage, substandard design and in an insensitive response to the site, adjoining protected structures and the mews location and residential development in the current application. Specifically, in relation to No 9 Harcourt Street, close proximity, excessive proportions height and scale affect the historical setting and context and there is potential for loss of daylight and sunlight and overlooking of No 9.

The submission is accompanied by a copy of the detailed objection submitted at application stage which includes an architect's review of the application and a copy

from an extract from a publication by Conor Lucey (UCD) on plasterwork in Georgian townhouses.

9.2. **The Irish Georgian Society**

A submission was received from the Irish Georgian Society on 2nd September 2016 according to which the proposed development:

fails to consider the impact on protected structures the amenity of which would be adversely affected and the historic grain of the area,

would erode the quality and significance of the protected structures which would be overlooked and overshadowed,

would fail to maintain the proportionate relationship in scale between buildings, returns, gardens and mews structures and,

fails to consider the receiving environment and a mews development on the footprint of the mews houses on Montague Lane is appropriate.

9.3. **Kennedy Art.**

Kennedy is occupant of the property at No 12 Harcourt Street which it is stated is in commercial use with the exception of the top floor which is in residential use.

According to the submission the proposed development:

is gross overdevelopment which is out of scale and proportion and excessive in height.

will overshadow and overlook No 12 Harcourt Street including the apartment and,

would set undesirable precedent and increase traffic hazard along Montague Lane.

9.4. **Ultan and Conor Kennedy**

According to the submission received from Ultan Kennedy the proposed restorative work fails to acknowledge the impact of the proposed development at the rear due to massing and scale and to proximity to the protected structures and would also cause overshadowing.

10.0 **Response to the Appeal by the Planning Authority.**

10.1. In the submission received on 1st September, 2016 the planning officer reiterates her concerns is requested that the decision to refuse permission on the basis of the reasoning in her report be upheld.

11.0 **Development Plan.**

11.1. The Dublin City Development Plan, 2016-2022 was adopted and brought into effect in October, 2016 after the determination of the decision by the planning authority and lodgement of the appeal.

According to the development plan:

Nos. 10 and 11 Harcourt Street at the front of the site are within an area subject to the zoning objective Z8: *(To protect the existing architectural and civic design character and to allow only for limited expansion consistent with the conservation objective. (This objective applies to the Georgian areas in the city)*

The rear section of the site facing onto Montague lane is subject to the zoning objective: Z5: *To consolidate and facilitate the development of the central area and to identify, reinforce, strengthen and protect its civic design character and dignity.*

The zoning objectives and statutory designations are the same as in the Dublin City Development Plan, 2011 – 2016.

Nos 10 and 11 Harcourt Street and the other historic houses on Harcourt Street are included on the record of protected structures.

The site location is within the zone of archaeological potential for city centre.

The site location is at the edge of a Conservation Area to the east which incorporates Harcourt Street. Relevant policies and objectives are in section 11.1.5. incorporating Objectives CH 1 0 CH8 and CH01-CHC09.

The indicative sit coverage is 50 per cent for the Z8 Zone and 90 per cent for the Z5 zone. A higher site coverage can be permitted in certain specified circumstances. (Section 16.6 refers.)

The indicative plot ratio for the Z8 zone is 1.5 and for the Z5 zone it is 2.5-3.0. A higher plot ratio can be permitted in certain specified circumstances. (Section 16.5 refers.)

The location comes within the “Low Rise category” which allows for consideration of building height of up to twenty-eight metres in the inner city for commercial development. Section 16.7.2 refers.)

12.0 **Assessment.**

12.1. The issues considered to be central to the determination of a decision and discussed below are:

Overdevelopment, site coverage plot ratio, scale, mass and height.

Impact on amenities of adjoining properties.

Impact on Protected structures: Context and setting.

Impact on Protected Structures: Historic fabric.

Impact on Protected Structures: Harcourt Street façade and front curtilage.

Traffic Safety and Congestion

Precedent

12.2. Notwithstanding the extensive references to prior planning history and in particular a prior undetermined application in the submissions made in connection with the application and the appeal, the current proposal is considered on its own individual merit, it being noted that no similar prior proposal has been subject to appeal.

12.3. **Over development: Site Coverage and plot ratio, scale, mass and height.**

The site coverage at one hundred percent and the stated plot ratio at 3.38 greatly exceed the indicative coverage and ratios for development within area subject to the Z8 zoning objective and are in excess of those for areas subject to the Z5 zoning objective. The appeal site which is that of a reversal of severed historic curtilage of a Georgian townhouse and part of the curtilage of the adjoining townhouse on Harcourt Street is extensively covered by existing structures. The points made in the appeal as to the extent of site coverage and the three storey element in the existing warehouse structure has been noted as well as the contention, according to one observer submission that some of the structures are unauthorised are noted. Nevertheless, it is reasonable that the site coverage of the main warehouse structure which would appear to be circa 75-80 percent be taken into consideration with regard to footprint and site coverage.

While the indicative site coverages in the development plan are noted, there may be some scope for flexibility if all other considerations are satisfactory and contribute positively to the area. A similar approach can be taken with regard to the indicative plot ratios and higher plot ratios have been considered and approved for a number of commercial developments and redevelopments in the inner city having regard to the criteria allowing for consideration of higher plot ratios. Of particular note with regard to the current proposal is the central city site location which is well serviced by public transport and services and facilities and the potential of the site location to contribute to employment and the economy. Scope for flexibility with regard to site coverage and plot ratio is dependent on the capacity of the site to accept the development.

The site coverage is one hundred percent and the upper floors which in height extend above the eaves height of the Harcourt Street houses have a setback of circa 5.5 metres in from the main flank wall of the Harcourt Street houses. This in conjunction with the mass of the new build that infills the full depth along the side boundaries as far as the rear boundary is excessive, overbearing and dominant in impact on the Georgian townhouses whereas the existing structures are subordinate to them as a group. To this end, it is considered that the site and environs does not have the carrying capacity to accept a development with the proposed site coverage and plot ratio in excess of the indicative coverage and ratios in the development plan. It therefore constitutes overdevelopment. There is no objection in principle to the extent of glazing proposed for the west facing façade onto Montague Lane.

12.4. Impact on Amenities of Adjoining Properties.

Notwithstanding the architectural heritage implications which are considered separately below, the amenity potential of the adjoining houses which have an element of current residential use which is encouraged for the south city Georgian buildings in the development plan in addition to commercial and retail uses is affected by the scale, height, mass and proximity of the proposed new build.

The development owing to the height and depth would give rise to sense of enclosure of the rear rooms of the adjoining properties at Nos, 9 and 12 Harcourt Street, which are in third party ownership. The new building would obstruct access to sunlight from the west and may have implications as regards the vertical sky component (VSC) but this has not been investigated. There may be potential for perceptions of overlooking. There would be no objection to the west facing roof terrace.

12.5. Impact on protected structures - Context and Setting.

The concerns expressed and conclusion arrived as regards overdevelopment are significantly greater when the Georgian architectural character of the Harcourt Street area and inclusion on the Harcourt Street houses on the record of protected

structures are taken into consideration. The site straddles areas within areas subject to the Z5 and Z8 zoning objectives. While the existing severance of the historic curtilages is acknowledged there is no justification for the height and massing throughout the depth of the site of the new build within such close proximity to the Harcourt Street houses. As a result, from the west, south and north, the distinct identity as these terraced houses as individual predominant and primary structures at the front of Georgian plots would cease to be recognisable and would be obscured. At present the upper level, leaves and roof profiles of the rear of the terrace of houses facing onto Harcourt Street remains visible and identifiable as a backdrop to the various structures in the foreground facing onto Montague Lane. The primacy of the main houses and subordination of the structures facing onto the former service lane is recognisable and a similar hierarchy is desirable for new build having regard to the recommendations within, *Architectural Heritage Protection: Guidelines for Planning in Authorities*, (DOEHLG 2005) as reflected in the Dublin City Development Plan, 2016-2022 (Chapter 11).

12.6. Impact on protected structures: Historic Fabric.

It is considered that a sufficient case has not been made on grounds of heritage and planning merit for the proposed removal of historic fabric at the rear wall along within openings. rear wall fabric in conjunction with the extent of intervention for provide for the lowering of the ground floor in order to integrate the new build with the existing house at No 10 Harcourt Street. The interventions necessitate loss of historic fabric and associated integrity and character of the structure. Furthermore, it is considered that the overall site does have sufficient scope for viable and sustainable development potential appropriate to the mixed use central city location without intervention to the degree proposed. The interventions would further contribute to the undermining of the primacy of the historic houses in relation to the site and immediate environs to the rear of Harcourt Street.

12.7. **Impact on protected structures: Harcourt Street façade and front curtilage.**

As has been pointed out, the front façade of the building has previously been altered at ground floor level by removal of the original ground floor window, enlargement of the opening and installation of a shopfront. The continuation of this arrangement with the main entrance door and door case being retained without inappropriate intervention is supported and is acceptable given the pre-existing arrangement. Furthermore, it is noted that extensive plasterwork within the interior will not be affected. The proposals for removal of the mild steel railings and timber decking is also highly desirable. but there is concern about the proposals for the installation of a concrete slab and opening up of the basement area to light and as to demarcation of the perimeter of the site frontage and the proposed installation off glass sets in the granite slab. It is note the existing railings are fixed directly to the ground the original granite plinth having been removed. Given the alterations described above, the streetscape integrity at ground floor level, which is already been altered at this group of houses, would be exacerbated by the absence of lack of solid plinth along the perimeter of the front curtilage or the bottom of either the façade, raised granite level or step and the glazing at pavement level on the front façade. These concerns could be overcome by modifications incorporated into a revised proposal.

The various works such as the improvements to the presentation of the building onto Harcourt Street and for removal of stud partitions facilitating partial reinstatement of original planform are negligible in proportion to and in the context of the extent of intervention proposed and the scale and intensity of the new build.

12.8. **Traffic Safety and Congestion.**

Traffic along Montague Lane at the rear of the site are very limited and primarily destination only at residential and commercial development. On review of the lodged plans and particulars it is clearly apparent that travel by private car will be discouraged due to the lack of on-site parking spaces and that commuting by cycle, pedestrian and public transport encouraged. Trips associated with deliveries and loading and servicing the building should be relatively limited. There is no concern

as to traffic congestion or obstruction of traffic through use of the access to the development.

12.9. Precedent.

Relaxation of the indicative site coverage and plot ratios and of the objective which provides for limited expansion in the Z8 zone at and adjacent to protected structures in each instance is open to consideration on a case by case basis having regard to the specified criteria in the development plan. Nevertheless, favourable consideration of the current proposal could strengthen the case for further development of the scale, height, mass and proximity to and/or within the historic curtilage of existing historic buildings within or adjacent to areas subject to the Z8.

13.0 Appropriate Assessment.

- 13.1. A screening report was not included with the application and appropriate assessment does not appear to have been conducted by the planning authority.
- 13.2. There are seventeen European sites within fifteen kilometres of the site and the four in closest proximity are: The South Dublin Bay SAC (0002100, South Dublin Bay and River Tolka Estuary SPA (004024), The North Dublin Bay SAC (00206) and the North Bull Island SPA (04006) The sites are designated for for the tidal and estuarine habitats and wintering and water bird species which include roosting birds.
- 13.3. Having regard to the location in the inner city and to the nature and scale of the development which comprises alterations and adaptations and part change of use to offices at an existing structure, demolition of existing structures and new build commercial development incorporating satisfactory attenuation measures for storm water in conjunction with a requirement for SUDS arrangements, and to the nature of the receiving environment no appropriate assessment issues arise.

14.0 Conclusion.

In view of the foregoing, it is recommended that the planning authority decision to refuse permission be upheld and that the appeal be rejected on grounds relating to overdevelopment in contravention of the zoning objectives, adverse impact on the integrity of the protected structures and amenities of adjoining properties and potential for undesirable precedent for similar development in the historic Georgian core of the city.

A draft order is set out overleaf.

DRAFT ORDER

DECISION

Refuse Permission on the basis of the Reasons and Considerations set out below:

REASONS AND CONSIDERATIONS

Having regard to the Dublin City Development Plan, 2016-2022 according to which:

- the terraced Georgian townhouses, including No 10 Harcourt Street are included on the record of protected structures,
- the site location is within a conservation area and,
- The site is subject to the zoning objective: Z8 to protect the existing architectural and civic design character and to allow only for limited expansion consistent with the conservation objective and the zoning objective, Z5: To consolidate and facilitate the development of the central area and to identify, reinforce, strengthen and protect its civic design character and dignity,

it is considered, notwithstanding the prior subdivision of the historic curtilages and the existing structures to be demolished, that by reason of the proposed coverage in entirety of the site, the intensity, scale, mass and height and the proximity to the adjacent Georgian houses on Harcourt Street proposed development constitutes overdevelopment which would dominate and adversely affect their setting and context and the integrity and character of the protected structures by reason of interventions to historic fabric to facilitate the development and would adversely affect, the amenity and the viability of the adjoining protected structures to either side by reason of overbearing impact and potential overshadowing. As a result, the proposed development would be in

material contravention of the development objectives of the Dublin City Development Plan 2016-2022 and contrary to the proper planning and sustainable development of the area.

Jane Dennehy,
Senior Planning Inspector.
8th November, 2016.