



An
Bord
Pleanála

Inspector's Report PL29N.247231.

Development	Removal of tennis court, trees, part of existing embankment, construction on of new sports pavilion along boundary wall to Collins Barracks, multi-use court and associated works.
Location	Blackhall Place, Dublin 7.
Planning Authority	Dublin City Council.
Planning Authority Reg. Ref.	2720/16.
Applicant(s)	The Law Society of Ireland.
Type of Application	Permission.
Planning Authority Decision	To grant.
Type of Appeal	Third Party
Appellant(s)	Collins Square (Apartments) Management Company.
Observer(s)	None.
Date of Site Inspection	1 st December 2016
Inspector	Deirdre MacGabhann.

Contents

1.0 Site Location and Description	3
2.0 Proposed Development	3
3.0 Planning Authority Decision.....	6
4.0 Planning History.....	9
5.0 Policy Context.....	10
6.0 The Appeal	11
7.0 Assessment.....	17
8.0 Recommendation.....	23
9.0 Reasons and Considerations.....	23
10.0 Conditions	23

1.0 Site Location and Description

The appeal site is located within the Law Society's landholding at Blackhall Place, Dublin 7. It lies to the rear of the main property, which fronts Blackhall Place, and south of the existing playing fields. The site comprises two existing tennis courts, associated fencing and floodlighting and changing rooms, in the form of containers, on the northernmost court. Other buildings on the campus include the Law Library, educational and social facilities for the legal profession, and immediately east of the appeal site, a small number of other pre-fabricated buildings.

To the north and west of the playing fields is a raised embankment with mature trees. The embankment, with two mature sycamore trees, extends into the appeal site and is retained by a low block wall and a higher block and stone wall in the vicinity of the tennis courts (see photographs).

The appeal site is bounded to the south by Collins Square, a residential development, and to the west by Collin's Barracks, one of the National Museum of Ireland's four sites in the State, focusing on 'Decorative Arts and History'.

Collins Square is a four storey residential development which is separated from the appeal site by a high stone wall (c. 4m, appeal site side) and a small courtyard, which tapers slightly from west to east. Windows in the northern elevation of the residential development, and from slightly protruding stairwells, overlook the courtyard and the appeal site. Within the courtyard are a small number of mature deciduous trees.

The appeal site is also separated from Collins Barracks by a high stone wall (c.5m, appeal site side) and an internal access road to the museum buildings. The level of the internal access road varies but is above that of the appeal site and Collins Square rear courtyard.

2.0 Proposed Development

2.1. The Planning Application

The proposed development, as set out in the planning application (20th April 2016), comprises the:

- Removal of the existing changing room container units, northern tennis court and associated fencing.
- Removal of the existing block wall, stone and block wall, earth embankment and two sycamore trees to the west of the existing changing rooms.
- Removal of two portacabins to the east of the existing tennis courts.
- Construction of a two storey sports pavilion (230sqm) to the west of the existing tennis courts, along the boundary wall to Collins Barracks. At ground floor this will comprise locker rooms, shower facilities, storage, plant and stairway to upper floor. At first floor it will comprise an exercise space and a terrace overlooking the multi-use court (the terrace is offset from the southern edge of the pavilion). The building will be finished in a flat, sedum roof.
- Construction of a multi-use court, and fencing, to the east of the proposed sports pavilion.
- Relocation of existing floodlights to suit the new court layout.
- New roadway, steps to terrace, repair of boundary walls and landscaping to existing green.

Surface water will be discharged to a soak pit on site and foul water will be directed to join the existing drainage system.

2.2. Design Report

The planning application for the development is accompanied by a Design Report, April 2016. It refers to the location of the Law Society property (Blackhall Place) within an Architectural Conservation Area and the designation of the property and boundary wall between Blackhall Place and Collins Barracks as protected structures (Ref. Nos. 765 and 716 respectively). The report describes the proposed works and how it will engage with Blackhall Place and its curtilage. In particular, it notes:

- The outer garden is currently compromised by tennis courts in the south west corner which extend out into the green square.
- The development is designed to have a 'lighter' first floor, with large setbacks and 'shadow gaps' to reduce its impact on existing walls and neighbouring sites.

- The structure is designed to take no support from the existing retaining wall and will be cantilevered to new foundations constructed away from the base of the existing wall.

2.3. Further Information

In response to the planning authority's request for further information (18th July 2016), the applicant provided the following information on the use of the proposed facility:

- The pavilion and multiuse court will be used by Law Society staff, members and students for leisure only, with opening hours generally Monday to Friday up to 7pm and exceptionally to 9pm.
- Activities in the first floor exercise area include yoga, Pilates, tai chi and other general exercise sessions with classes typically 5pm to 7pm.
- The multiuse court will be used mostly for tennis and possibly basketball or 5 a side football. There may be occasional evening matches, with any noise only associated with the players.
- Floodlights will be relocated along the boundary wall, and northern edge, of the multi-use court and will continue to light northwards, away from Collins Square Apartments.
- The Law Society's football team trains on the existing soccer pitch every Wednesday from 6.30pm to 9pm. The team will continue to use the edge of the pitch closest to the multiuse court to avail of floodlights located along the edge of the court (which face north towards the green). During the football season, matches take place usually on a Saturday afternoon every second week. During July and August, a summer league takes place on the existing soccer pitch in the evening, usually 2-3 evenings a week. The pavilion would be used by players to change.
- It is not intended that any social events will take place in the area as it is not intended to provide catering or bar facilities (these are available elsewhere on campus).

In addition, the applicant submitted revised details to prevent overlooking of the adjoining apartments by the proposed first floor terrace. These comprise:

- An increase in the separation distance between the proposed terrace and the Collins Square development of between 22m to 45m (Drawing No. 112, Rev P1).
- An increase in the height of the boundary wall to Collins Square, with additional timber screening fixed to the top of the wall, for the length of the shared boundary wall (Drawing No. 121, Rev P1).
- Additional metal fin privacy screen to the southern window of the pavilion (Drawing No. 140, Rev. P1).

3.0 Planning Authority Decision

3.1. Decision

On the 13th August 2016, the planning authority decided to grant permission for the proposed development subject to 12 conditions. Most of these are standard, with the following exceptions:

- Condition no. 3 limits use of the multi-use court and adjoining floodlights to 21.30 hours.
- Condition no. 4 states that the pavilion shall be used only for sporting and other exercise purposes, including purposes ancillary to the use of the permitted multi-use court and adjoining outdoor sports facilities on site, and shall operate in accordance with the hours of operation of these facilities.
- Condition no. 5 deals with archaeology.
- Condition no. 6 deals with conservation.
- Condition no. 9 controls hours of construction and condition no. 12 with construction and demolition noise.

3.2. Planning Authority Reports

The Planning Officer's report of the 13th June 2016 refers to the zoning of the site, its planning history, interdepartmental reports and report by external consultees. In its assessment it states that there is no objection in principle to the development or on

conservation grounds. However, as a consequence of its proximity and orientation in relation to Collins Square, it recommends further information in respect of:

- The proposed hours of operation of the multi-use court and pavilion,
- Whether it is proposed to use the pavilion for social functions
- How it is proposed to address the concerns of residents with regard to noise and floodlighting

It also recommends that the applicant submit additional screening measures to prevent overlooking of adjoining apartments from the first floor terrace.

The Planning Officer's report of the 12th August 2016, refers to the additional information provided by the applicant. It considers that, provided that the sports pavilion is used only as a changing facility and exercise space ancillary to the use of the outdoor sports facilities on site, and operates generally in accordance with the hours of operation of the sports facilities, the development would have no undue adverse impact on the residential amenities of adjoining occupiers. The report recommends, therefore, that planning permission be granted, subject to condition.

3.3. Other Technical Reports

On file are the following technical reports:

- City Archaeologist (20th May 2016) – Refers to the location of the development within the Zone of Archaeological Constraint for the Recorded Monument DU018-020 (Dublin City) and within the Zone of Archaeological Interest set out in the Dublin City Development Plan 2011 to 2017. It recommends that conditions in respect of archaeological monitoring be attached to any grant of permission.
- Conservation Architect (31st May 2016) – Recommends a grant of permission subject to conditions (required standard of work). States that the new contemporary pavilion is considered acceptable in this instance as it has been located and detailed so as to minimise its impact on the adjacent historic fabric and that it will not alter the character of the protected structure or that of the adjacent protected structures.

- Engineering Department Drainage Division (23rd May 2016) – No objections subject to conditions in respect of site drainage.

3.4. Prescribed Bodies

Observations are made on the application by the following prescribed bodies:

- TII (19th May 2016) – No comments.

3.5. Third Party Observations

The following third party observations were made on the planning application:

- Robert Stack (23rd May 2016) – Occupier of 13 Collins Square. Objects to the development on the grounds of privacy (unimpeded views from first floor of development on ground floor and first floor bedrooms of Collins Square), security (easier access to rear of Collins Square) and construction noise. It suggests that consideration should be given to moving the development further north along the boundary wall with Collins Barracks, increasing the height of Collins Square boundary wall, reducing the height of the facility (to single storey) and stipulating that construction be carried out during normal business hours, Monday to Friday.
- Collins Square Management Company (23rd May 2016):
 - Risk of use of facility for social functions (e.g. bar) and increase in noise from social activities.
 - Overlooking of apartment block from first floor exercise space and outdoor terrace, in particular if used for social functions. First floor proposals should therefore be omitted.
 - A limit should be set on hours of use of the pavilion (to prevent noise).
 - Intensification of use of proposed facility in winter (with floodlights). The relocation of existing floodlights should be away from Collins Square apartments.
 - Use of the multi-purpose outdoor space should be clarified (e.g. dramatic increase in use could occur with flood lit soccer).

- The design of the development could facilitate unauthorised access from the Museum onto the rear of the proposed development and into the rear of the Collins Square apartments.
- Danger of injury, falls and death to unauthorised persons traveling on high boundary wall from proposed development.
- No detail of structural proposal to existing mass concrete boundary wall to Collins Square or mitigation required in relation to construction.
- Construction working hours should be limited.
- Stephen Collins (23rd May 2016) – Owner of no. 34 Collins Square. Apartment overlooks the development. Concerned regarding:
 - Flood lighting and impact on bedrooms and sleep patterns.
 - Noise from construction and from the operation of the facility, particularly late at night.
 - Dust arising from construction site, and impact on health.
 - Potential for trespass and break-ins to Collins Square complex as development gives easier unauthorised access to rear of apartments.
 - Impact on protected structures (boundary wall to Collins Barracks, Blackhall Place).

4.0 Planning History

The planning application form refers to two pre-application meetings with the planning authority in June 2015 and March 2016. In addition, the following developments have been granted permission in the vicinity of the appeal site:

- The temporary retention of five single storey temporary structures, for use as storage space, sports changing/shower rooms and offices to the rear of the Law Society premises (PA Ref. 1492/05).
- Alterations to, and the conservation and repair of, the property at Blackhall Place (PA Refs. 1124/97; 1421/01; 4710/03; 1760/04; 3655/08; 0172/15; 2678/16).

- Development at the Education Centre at Blackhall Place within the curtilage of the protected structure (PA Ref. 2222/13).
- Minor construction works (PA Ref. 3659/99; 2213/06).

5.0 Policy Context

5.1. Development Plan

The statutory development plan for the appeal site is the Dublin City Development Plan 2016-2022. It zones the appeal site, and the western side of the Law Society lands at Blackhall Place, under objective Z9, 'to preserve, provide and improve recreational amenity and open space and green networks' (see attachments). Policy GI32 of the Plan supports the development of private recreational lands for recreational purposes.

The eastern side of the Law Society lands at Blackhall Place and Collins Barracks are zoned under objective Z15, 'to protect and provide for institutional and community uses'.

Collins Square to the south of the appeal site is zoned under objective Z5, 'to consolidate and facilitate the development of the central area, and to identify, reinforce, strengthen and protect its civic character design and dignity'. Policies of the Plan have regard to the government's guidelines for the development of sustainable residential areas (Policy QH1) and seek to provide sustainable urban neighbourhoods which are well designed, safe and to avoid anti-social behaviour (Policies SN1 and QH11).

The Development Plan identifies the following buildings as protected structures.

- Blackhall Place, Dublin 7, Incorporated Law Society (formerly King's Hospital School), Protected Structure no. 765.
- Benburb Street, Collins Barracks, Protected Structure nos. 712 to 726, including boundary wall onto former Bluecoat School, Protected Structure no. 716.

Policy CHC2 of the Plan affords protection to the special interest of protected structures and their curtilage. Blackhall Place, including the Law Society buildings

on the western side of the road, is a designated Conservation Area. The special interest and character of this conservation area is afforded protection under Policy CHC4 of the Plan.

The appeal site also falls within a designated Zone of Archaeological Interest within the City Centre. Policy CHC9 affords protection to the archaeological potential of sites falling within Zones of Archaeological Interest.

5.2. Natural Heritage Designations

The proposed development is removed from any sites of nature conservation interest, including European sites.

6.0 The Appeal

6.1. Grounds of Appeal

The third party appeal in respect of the decision to grant permission is made by Collins Square Management Company. It sets out the following grounds of appeal:

- Security – The proposed development, would facilitate, unauthorised access over the boundary wall from the National Museum into the rear courtyard and apartments and would bypass recently installed security measures. At ground floor level, the proposed flat roof, which would adjoin the boundary wall, would provide a comfortable platform to land on, compared to the current 5m drop to the existing tennis courts. The proposed 1.3m high x 35m long solid timber fence would offer little security to the boundary as it:
 - a. could be easily scaled from the ‘platform’ roof,
 - b. will effectively act as a handrail to support those walking along the wall, and
 - c. provides no measures at the Museum end to prevent access there.
- Loss of light and view – The proposed solid timber fence along the top of the boundary wall would significantly block light from the rear courtyard, the two lower floors of residential accommodation and restrict light and views from the second floor apartments. (The party wall is at best in the ownership of Collins

Square Management Co. and at least is a shared party wall between the Management Company and the Law Society. In both cases the Management Company would refuse permission to increase its height, build on it or attach to it).

- Overlooking/loss of privacy – The proposed upper ‘exercise space’ has clear views into second floor bedrooms and living rooms of Collins Square. With substantial floor to ceiling glazing and two open spaces it is clearly intended to accommodate gatherings of people. The setback of 22m is more suited for back to back dwellings, where smaller numbers of people would be involved. The design of the exercise space and large first floor terrace adds to the concerns that large groups (e.g. spectators for multi-use court) would congregate outdoors accentuating the loss of privacy and degree of overlooking. The proposed screen would be inadequate, would allow a direct and full view into second floor apartments from the unlouved pavilion windows on the upper floor and from the outdoor terrace and would allow for the extension of the terrace towards the boundary wall with Collins Square. It is not clear what purpose a terrace adds to the ‘exercise space’ and question its inclusion in the design. They argue that at a minimum it should be removed entirely.
- Noise and nuisance – The upper storey and large adjoining terrace is designed for larger groups which could be used for social gatherings, with a temporary bar, for viewing matches etc. This would impact on the quiet enjoyment of the residential development. Condition No. 4 of the grant of permission is insufficiently clear. The condition could be interpreted to include spectator gatherings and sports related social receptions on the upper floor and terrace.
- Floodlighting – Currently the two tennis courts are largely unused throughout the year. The four existing floodlights are used once a week, Tuesdays, from September to May (approximately) to accommodate players who use the grass margin nearest the courts. Lights go off around 9pm. The proposed use of the courts as a multi-use court would suggest a move to five-a-side football and more intensive use of the area and greater use of floodlighting. There is some light pollution from the nearest lighting poles. With the

proposed development this could increase and adequate mitigation measures should be stipulated e.g. use of baffled directional light fittings.

- Modifications – The appellant proposes (i) the proposal is reduced to a single storey facility; (ii) any potential bar, social or dedicated spectator facility is omitted, and (iii) any new block is offset from attachment to both the Museum and Collins Square boundary by a minimum of 1.5m.

6.2. Applicant Response

The applicant makes the following arguments in response to the appeal:

- Context – The proposed development forms part of an overall development strategy set out in 2015 for the ongoing care, repair and future development of the Blackhall Place site. The development provides a comprehensive design solution for the campus by removing a current eyesore, provides a well designed contemporary development with improved facilities for students, members and staff, ensuring the sustainability of the site into the future.
- Security – A new building in this corner of the campus would not further compromise security. Intruder access can be easily gained from the Collins Barracks side from the flat roof bicycle shed. Palisade fencing and anti-climb paint would continue to act as a deterrent on the appellant's side of the boundary. The applicant is willing to continue to seek solutions to the problems with intruders and have offered to install additional CCTV at this location as a deterrent. The applicant is happy to omit the timber fence along most of the boundary with the apartments, but considers that a section should be retained along the southern boundary of the new pavilion building to act as security fencing between both sites at this point. The screen detail would be redesigned as timber fins, to be non-climbable and would fit across the capping of the boundary wall so that nobody could walk along the wall using the screen as a handrail. The applicant will continue anti-climb paint along the top of Collins Barracks wall the length of the new pavilion as is necessary to further deter intruders. The applicant also proposes the addition of CCTV.
- Loss of light and view – The proposed setback of the terrace and the erection of metal fins to the windows closest to the boundary wall are sufficient

measures to prevent direct overlooking of apartments. Given the north facing aspect of the apartments and the quantity of mature trees between Collins Square and the shared boundary wall, the proposed timber screen above the boundary wall would not result in any overshadowing or loss of light of the open space to the rear of the apartments. However, as stated above the applicant is willing to omit most of the timber screen along the boundary wall.

- Overlooking/loss of privacy – As indicated in the drawings submitted, at Further Information stage, the terrace has been moved further back from the boundary with the apartments and the separation distance from the first floor of the pavilion to the rear of the apartments is 22m. There are no windows on the rear elevation facing the apartments. Metal fins are attached to windows closest to the boundary wall to preclude any indirect overlooking from the first floor exercise area. The applicant also proposes a screen to the southern end of the terrace, which would further prevent overlooking from the apartments. The proposed terrace is an integral part of the design of the first floor space to be used mainly in the summer months as a small outdoor break out space for Yoga practice, Pilates, Tai Chi and other similar activity. The proposed pavilion and multi-use court will be used by Law Society staff, members and students for leisure use only. The Law Society will be managing all bookings of the exercise area and court and will have strict control of how the building is managed.
- Noise and nuisance – The Law Society categorically state that it is not intended that any social events will take place in the sports pavilion or that there is any intention to provide catering or bar facilities. These facilities are available elsewhere on campus. The pavilion is being built to provide proper changing facilities, showers and toilets and exercise space. The exercise space is divided into two separate areas, with the stair core in the centre of the space. One will be used for Yoga etc. and the other will be furnished with gym equipment. The layout of the space would not be convivial to social gatherings and has not been designed within this in mind. Condition no. 4 clearly sets out that the pavilion will be used only for sporting and exercise purposes, including those ancillary to the permitted use as a multi-use court

and adjoining outdoor facilities. The applicant has no issues with fully complying with this condition.

- Floodlighting – Four of the existing floodlights will be relocated, seven metres along the boundary to line up with the new multi-use court. The floodlights will be repaired, where necessary, and will continue to be angled towards the court. The existing lights are c.8-10m from existing apartment windows and the repositioned lights will also be adjacent to the boundary wall. Whilst there will be a more intensive use of the courts for tennis, basketball and five-a-side football, these would not be categorised as noisy sports. The applicant will put a timer on the floodlights to ensure that they cannot be used after 21.30 hours, to comply with the planning authority's condition in respect of their use.

6.3. **Planning Authority Response**

The planning authority makes no response to the appeal.

6.4. **Observations**

The appellant makes the following additional comments on the applicant's response to the appeal:

- Management of pavilion - Undertakings to manage bookings and for quiet yoga sessions in the upper floor and terrace are unenforceable statements which offer little comfort.
- Relocation of pavilion - To compensate for the request to offset of the ground floor on the Collins Square boundary, there seems to be adequate room to move the block north and east if a similar offset was introduced on the boundary with the National Museum. The appellant would not object to this move, or, in principle, to a larger ground floor.
- Removal of upper floor - To compensate for the loss of the upper floor exercise space, there appears to be potential for the Law Society in an uncompleted two-storey section of the western end of the Green Hall building (PA Ref. 3655/08).

- Security - The shared Museum boundary wall can be reached easily from the roof of the bicycle shed on the National Museum side, but access beyond is now extremely difficult after the measures installed by the Management Company in 2015. The provision of a long pavilion roof 'platform' on the Law Society side would bypass these defences, lessen the risk of falling and make the difficulty of scaling one section of the anti-climb paint manageable. CCTV may be a deterrent but the appellant would not be quick to install or accept CCTV monitoring of their private space or boundary wall. The appellant welcomes the removal of the timber screen, but objects to the retention of a section of the screen which is not warranted if the simple 1.5m offset of the ground floor block from the boundary wall was made. (The proposed overlap detail would cross the central line of the party wall and would not have the appellant's permission).
- Loss of light – The Acacia-type and Rowen trees in Collins Square are deciduous and are spaced apart along the spine of the courtyard. The taller Acacia trees shed branches as they grow. Along with regular branch-pruning the seasonal loss of leaves means there is a clear view through the trees for much of the year.
- Overlooking and noise – The location of new screening closer-in to the pavilion is a more effective design solution to the overlooking issue than the wall top extension. The omission of the terrace entirely would be simpler still. Neither modification address the other fundamental concerns about the intended function and likely use of the upper floors of the pavilion generally. If used for break-out social or spectator space for matches, a 22m boundary would not be an effective distance from either noise or overlooking.
- Use of upper floor – There is no written undertaking by the Law Society prohibiting social or bar use of the upper floor. Objection to wording of Condition no. 4 stands. The design of the upper floor is vaguely described, absent of any furniture or fittings that would suggest the intended use. The existence of bar facilities in three parts of the campus do not preclude another bar or social/spectator function related to the sports facility.

7.0 Assessment

Having regard to the plans and particulars in respect of the proposed development and my inspection of the site, I am satisfied that the proposed development is:

- a. In principle, consistent with the zoning of the appeal site 'to preserve, provide and improve recreational amenity and open space and green networks', and
- b. Is of a scale and form that is generally modest and subservient to the scale and form of the Protected Structures at Blackhall Place and Collins Barracks, including the boundary wall to which it is anchored (Protected Structure no. 716) and does not detract from them.

I confine my assessment, therefore, to the following issues:

- Security.
- Impact on light and view.
- Overlooking and loss of privacy.
- Noise and nuisance.
- Floodlighting.

7.1. Security

I note the references, by the appellant and applicant, to break-ins which have occurred at Collins Square apartments and I acknowledge concerns in this regard.

The appellant argues that the higher ground on the museum side allows easy scaling of the Law Society boundary and that the proposed development will provide a safe platform to land on, bypassing recently installed security measures (palisade fencing and anti-climb paint), with a much easier prospect of scaling the Collins Square boundary (see appellant's photographs submitted with appeal). They also argue that the proposed screen along the boundary wall (as proposed by way of Further Information), would be easily surmountable from the roof of the pavilion, and would act as a 'handrail' to support trespassers walking along it.

Having regard to my inspection of the appeal site, the different ground levels in the vicinity of the site, the existing security arrangements to the rear of Collins Square and the design of the proposed development which introduces a flat roof in proximity

to the boundary wall with Collins Square, I would accept this argument and that the development, as granted permission by the planning authority, could facilitate unauthorised access to Collins Square.

In response to the appeal, the applicant proposes the following additional and/or alternative measures:

- Anti-climb paint on the boundary wall to Collins Barracks for the length of the proposed pavilion,
- Non-climbable security fencing (timber fins fitted across the capping to prevent use as a handrail) along the shared boundary wall with Collins Square, for the width of the proposed pavilion and to the height of the wall to Collins Barracks (Section B-B, drawing no. 121, Rev P2, submitted to the Board in response to the appeal). This would in effect provide a non-climbable wall/fence of c.2.25m in height along the south of the ground floor sedum roof.
- Omission of the proposed screen from the remainder of the boundary wall to Collins Square.
- The installation of additional CCTV equipment at this location to act as a deterrent.

If appropriately detailed, for example, to include an appropriate tie in with the wall to Collins Barracks and the remaining wall to Collins Square, I would accept that these arrangements would (a) reduce the ability of trespassers to scale the boundary wall with Collins Barracks and (b) prevent ready access from the flat roof of the proposed development to Collins Square. In addition, anyone attempting to climb the wall would be faced with a drop on the southern side of c.5.6m.

There are no details on file illustrating the design of the timber fins, however, I consider that it would be possible to design these to be aesthetically pleasing and not detract from the visual amenity of Collins Square or Blackhall Place.

Whilst I am mindful of the appellant's comments with regard to the provision of live CCTV monitoring of their private space or boundary wall, I would consider that CCTV equipment could be installed to focus on the perimeter wall (and not private amenity space) and could act as a further deterrent.

In summary, I consider that the applicant's revised arrangements are acceptable and minimise any additional security issues arising as a consequence of the development. I also consider that it is also in the interest of the applicant to ensure that security of the external boundary walls is effective, as any inadequacy would also allow trespass of the Law Society buildings.

In view of the above, I do not consider, therefore, that it is necessary to relocate the proposed development on the appeal site to provide a greater offset from the boundary wall with Collins Square (or Collins Barracks) to address the issue of security.

7.2. Impact on Light and View

The proposed development lies to the north of the Collins Square apartment block. The existing boundary wall to Collins Square development is c.4.35m high (Collins Square side) and is situated between c.9.4m and c.6m from the northern facade of the apartment block. In the existing courtyard are a small number of mature trees.

The proposed development, whilst two storey, has a flat roof, and projects little above the existing wall with Collins Barracks and would not itself adversely impact on light or views from the apartment block.

In response to the planning authority's request for further information, the applicant proposed a screen along the top of the boundary wall with Collins Square. Given the orientation of the apartment block and its proximity to the boundary wall, I would accept that the extension of the wall by 1.4m would further enclose the outdoor space, in particular in winter, and detract from daylight to it and the amenity of the apartments. I would consider that the omission of the screen for the majority of the wall, as proposed by the applicant in response to the appeal, is a better solution and would maintain the outlook, aspect and amenity of the majority of apartments (living or bedroom space) which face the outdoor space.

With regard to the apartments which face the remaining short section of the proposed security fence along the width of the pavilion, I note that the proposed wall would be constructed to the height of the existing Collins Square boundary wall with Collins Barracks (see Drawing No. 121, Rev.P2, submitted by the applicant to the Board in response to the appeal) over a distance of c.8 metres. These apartments are furthest from the boundary wall, with the rear elevation of the apartments (not

stairwell) c.10.7m from the fence. I consider that the modest increase in wall height, over this short distance and at this separation, is acceptable and would not seriously detract from the amenity of these north facing apartment units.

7.3. **Overlooking and Loss of Privacy**

The appellant argues that the proposed development with its exercise area and balcony at first floor will overlook the residential apartment block and impact on the privacy of residents. This impact will be accentuated by the use of the internal and external space by large groups, including the potential for spectators to gather for matches on the multi-use court. They state that the floor levels of the proposed pavilion are elevated above from the Collins Square block by 500mm, increasing the degree of overlooking possible from the pavilion.

In response to the request for further information the applicant increased the setback of the proposed balcony from Collins Square to 22m, proposed additional metal fins to screen views of the apartment blocks from the southern-most windows in the first floor exercise space (Drawing no. 11, Rev P1) and proposed a timber screen along length of the boundary wall with Collins Square.

The government's guidelines for planning authorities on Sustainable Residential Development in Urban Areas (DoEHLG, 2009) refer to a 22m separation distance between opposing above ground floor windows for privacy. Whilst I accept that it is not entirely appropriate in this situation where a private residential development is at risk of overlooking from a more public arena, it does provide some reference to distances where separation becomes adequate to safeguard privacy.

As stated, in response to the request for further information the applicant proposes a timber screen to increase the height of the boundary wall between the proposed development and Collins Square. By raising the height of the wall by 1.4m, as proposed, the screen would be c.2.25m higher than the floor level of the external balcony and exercise area and would screen all direct and oblique views from the first floor exercise space and outdoor balcony of the apartment block. However, as discussed above, the screen would detract from the amenity of apartments facing the outdoor space and I do not consider that it is an appropriate solution.

In the absence of the screen wall, in response to the appeal, the applicant proposes a screen at the balcony return, to prevent direct views of the apartment block. At a

height of 1.8m this, together with the proposed metal fins in the southern windows of the exercise area, would prevent any direct views into the rear of the apartment block. Whilst I accept that oblique views would still be possible from the northern part of the upper floor exercise area and balcony, these views would be at least 25m from the rear façade of the apartment block and I do not consider that the use of the upper floor for exercise classes, as proposed, or associated use of the balcony would give rise to significant overlooking.

With regard to overlooking arising from larger social gatherings, I note that it is not the intention of the Law Society to use the proposed pavilion for such uses (e.g. bar, social functions), as these facilities are provided elsewhere on the campus. Whilst it is possible that the balcony would be used by spectators to watch sporting events, in the absence of facilities for refreshment etc., any such use would be short term, and take place during the approved hours of operation of the facility. If the proposed development is used on this basis, as proposed by the applicant, then I consider that the proposed development would not give rise to significant overlooking or adversely impact on the privacy of the apartment block. Any deviance from the proposed use would be a matter for enforcement.

In view of my conclusions in respect of overlooking and privacy, I do not consider it necessary to omit the first floor component of the development as proposed by the appellant.

7.4. Noise and nuisance

The appellant raises concerns regarding the use of the proposed development for social functions and the noise arising from this and its effect on the quiet enjoyment of the residential block. As stated, the applicant has been clear that it is not its intention to use the proposed development for social functions. Given the proximity of the development to the residential apartment block, I would consider that such uses would not be appropriate, as they could give rise to substantial late night noise in close proximity to the apartment block. I consider that it would be appropriate therefore to limit the use of the proposed development expressly to that as a changing facility/exercise space and to defined hours of operation. These matters can be dealt with by condition.

7.5. Floodlighting

The existing two tennis courts are lit by six floodlights, three to the south of the existing courts and three to the north.

With the development of the multi-use court the lights will be relocated to the north and south of the proposed court. The three floodlights to the south of the existing tennis court will be relocated in an easterly direction, c.4.6m to 4.8m from their current position. The three floodlights to the north of the existing courts will move south and east by c.13m and c.4.5m, respectively.

I note that the current tennis courts are little used and I do accept that the multi-use court may well result in greater use of this area of the site and, in winter, possibly greater use of the floodlights (these are also used to partly light the grass margin nearest the courts). Whilst floodlights will continue to be orientated north, lights spill is likely to increase towards the apartment block, with the movements of lights further east and south, and floodlighting may be more prevalent. Whilst I accept that this could impact on the residential amenity of the apartment block, the use of floodlights on the site is well established and the impact of their use on residential amenity could be controlled by the use of directional light fittings (as suggested by the appellant) and limiting hours of operation to no later than 21.30 hours.

7.6. Other Matters

7.6.1. Legal Matters

The appellant raises issues regarding the applicant's legal entitlement to place fixtures on the boundary wall separating the Law Society from Collins Square. This matter lies outside the scope of this appeal and is not, therefore, addressed here.

7.6.2. Appropriate Assessment

Having regard to the modest nature of the development, its location in an urban area, removed from any sites of nature conservation interest, no Appropriate Assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans and projects on a European site.

7.6.3. Construction Noise and Dust

The proposed development is a relatively modest construction project and I consider that construction noise and dust (which is unlikely to be substantial) can be managed by condition.

7.6.4. Construction Details

The proposed development comprises construction works to the boundary wall with Collins Barracks. Having regard to the status of this wall as a Protected Structure, I consider that construction works should be carried out under the supervision on a Conservation Architect and to the satisfaction of the planning authority. This matter can be dealt with by condition.

8.0 Recommendation

I recommend that planning permission for the development be granted for the reasons set out below.

9.0 Reasons and Considerations

Having regard to the detailed design of the proposed development, in particular, as amended by the plans and particulars submitted to the Board on the 10th October 2016, the established use of the appeal site and subject to the conditions set out below, it is considered that the proposed development, would not seriously injure the residential amenity of the adjoining residential development by virtue of overlooking, impact on security, privacy, noise or floodlighting and would not detract from the character or setting of Protected Structures. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 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 18th July 2016 and by the further plans and particulars received by an Bord Pleanála on the 10th October 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. Prior to the commencement of development, the following details shall be submitted to the planning authority for written agreement:
 - i. Screen at the first floor balcony return.
 - ii. Security fence, for the width of the proposed pavilion, at the boundary wall with Collins Square.
 - iii. Floodlighting to minimise light spill onto Collins Square apartment block.
 - iv. Provision of CCTV at the boundary wall with Collins Square (subject to agreement with the owners of the property).

Reason: In the interest of residential amenity.

3. The multi-use court and adjoining floodlights shall not be used after 21.30 hours.

Reason: In the interest of residential amenity.

4. The pavilion shall only be used for changing and exercise purposes and shall not be used after 22.00hours.

Reason: In the interest of residential amenity.

5. Prior to commencement of development, the applicant shall:
 - (a) Provide, for the written agreement of the planning authority, details of all works to be carried out to the boundary wall.
 - (b) Provide for the appointment of a conservation expert, who shall manage, monitor and implement works on the site and ensure adequate protection of the historic fabric during those works.

All repair/restoration works shall be carried out in accordance with best conservation practice as detailed in the application and the “Architectural Heritage Protection Guidelines for Planning Authorities” (Department of Arts, Heritage and the Gaeltacht, 2011).

Reason: To ensure that the integrity of the historic structures is maintained and that the structures are protected from unnecessary damage or loss of fabric.

6. The developer shall facilitate the archaeological appraisal of the site and shall provide for the preservation, recording and protection of archaeological materials or features which may exist within the site. In this regard, the developer shall:
 - (a) Notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development, and
 - (b) Employ a suitably-qualified archaeologist prior to the commencement of development. The archaeologist shall assess the site and monitor all site development works.

The assessment shall address the following issues:

- (i) The nature and location of archaeological material on the site, and
- (ii) The impact of the proposed development on such archaeological material.

A report, containing the results of the assessment, shall be submitted to the planning authority and, arising from this assessment, the developer shall agree in writing with the planning authority details regarding any further archaeological requirements (including, if necessary, archaeological excavation) prior to commencement of construction works.

In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.

Reason: In order to conserve the archaeological heritage of the area and to secure the preservation (in-situ or by record) and protection of any archaeological remains that may exist within the site.

7. 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 and dust management measures and off-site disposal of construction/demolition waste.

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

8. 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.

9. 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.

. Deirdre MacGabhann
Senior Planning Inspector

14th December 2016