



An
Bord
Pleanála

Inspector's Report PL29S.247837

Development	Demolition of disused buildings and erection of 10 apartments with balconies.
Location	10 Usher's Island and 32 Island Street, Dublin 8.
Planning Authority	Dublin City Council.
Planning Authority Reg. Ref.	3503/16
Applicant(s)	Danny O'Malley
Type of Application	Permission
Planning Authority Decision	Grant Permission
Type of Appeal	Third Party
Appellant(s)	David and Mary O'Flanagan Car Upholstery Covers
Observer(s)	None
Date of Site Inspection	4 th April 2017 & 10 th April 2017
Inspector	Rónán O'Connor

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1.0 Site Location and Description

- 1.1. The appeal site extends between Usher's Island in the north to Island Street in the south. It is currently occupied by a single storey former industrial building, which at the time of the site visit was in use as a cycle workshop/cycle rentals. Usher's Island is the name of the road which runs parallel to the Liffey next to the south of the river.
- 1.2. North-west of the site is the James Joyce Bridge, a road and pedestrian bridge which links Usher's Island with Ellis Quay on the opposite side of the river. Immediately east of the site are premises known as the Mendicity Institution, which appears to be a day centre for homeless people. Here there is a building set back from the Usher's Island frontage in a garden and parking area. In the grounds of the Institution next to the appeal site there is an old industrial building. To the west of the appeal site next to Usher's Island is a terrace of two-storey buildings which have frontages of some historic character. These are flat-roofed and appear to have been partly demolished in the past. The properties in this terrace are used for various purposes, including a scooter shop next to the appeal site, offices, workshops with some residential on the upper floors. Further to the west is James Joyce House, which has four storeys over a semi-basement.
- 1.3. The south end of the site has a frontage to Island Street. To the east is the rear of the Mendicity Institution, where a part single-storey and part two-storey building abuts the pavement alongside Island Street. To the west is a five-storey block of flats. The flats have recessed balconies facing Island Street. This block has mostly brick elevations to the front and east side with a rendered top floor which is set back from the rest of the Island Street frontage. On the ground floor of this block next to the appeal site there is a vehicular access to a ramp which appears to lead to a basement area.
- 1.4. The parcels of land south of Island Street, on either side of Bonham Street, are fenced but open and look like cleared sites awaiting redevelopment. Beyond the open land to the west on the south side of Island Street is another five-storey block of flats (The Maltings).

2.0 Proposed Development

- 2.1. Demolition of existing structures comprising disused buildings and sheds, construction of 10 X 2 bedroom apartments with balconies in two 6 storey blocks with associated facilities at ground floor including 10 storage rooms with cycle parking, communal facilities, caretakers room, bin storage, plant & service rooms, service connections and a raised courtyard garden at 1st floor level, services and enclosures on roofs, landscaping, railings and all associated works.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. Grant permission with conditions. Conditions of note include:

- Condition 3 – (a) Omission of the fifth floor facing Ushers Island; (b) omission of glazed element above parapet (c) floor to ceiling height facing Usher's Island to be increased to 3.0 meters (d) omission of balcony to apartment no. 3 (e) all balconies to be finished in brick (f) omission of spandrel panels (g) glazing on the eastern elevation to be omitted (h) omission of glass block on west facing elevations (i) replacement of standing seam cladding on both west and east elevations with an alternative brick (j) replacement of PPC aluminium cladding at first floor level facing Ushers Island with brick (k) cladding of east and west elevations in brick (l) internal and external alterations to reflect the above.

3.2. Planning Authority Reports

- 3.2.1. Planning Reports

The report of the planning officer reflects the decision of the planning authority. Key points are set out below:

- It is noted that the site lies within the Liffey corridor conservation area.
- Principle of an infill housing development on the site was considered acceptable in principle.

- Noted that height relative to adjoining sites was a key issue.
- Elevation to Usher's Island is of primary importance.
- Height was considered excessive relative to neighbouring buildings.
- Amendments to elevations required.
- Projecting balconies would breach the building line.
- Ground floor lobby should be increased in height.
- Further information was requested in relation to (i) the impact on DART Expansion scheme (ii) design changes including a reduction in height to 5 storeys, provision of a 3m floor to ceiling height facing Usher's Island, omission of balconies facing Usher's Island, modification to footpath and building line.
- Response to the issue of impact on the Dart Expansion scheme was considered satisfactory.
- Glazing on the east and west elevations should be omitted to preserve development potential of adjoining sites.
- Reduction in height of one storey facing Usher's Quay was appropriate.
- Normal requirement for an active use at ground floor level was relaxed due to site constraints.
- Recommended a grant of permission subject to conditions including a condition requiring modifications to the proposal.

3.2.2. Other Technical Reports

Roads and Traffic Planning Division – No objection

Drainage Division – No objection

3.3. Prescribed Bodies

An Taisce – object as follows:

- Proposed elevation to the quays is not clear or coherent.
- Fails to respond to the scale and design of the Liffey Quays

- Buildings on the Quays have geometric elevations of 3, 4 or 5 storeys and are faced in brick or plaster
- Proposed building is inconsistent with this in terms of its asymmetrical façade and its 6-storey parapet height.
- 5 storey parapet height would be appropriate
- Elevation design should be revised to provide for a more formal geometric composition fitting to the location and the important Quays Conservation Area.

Dublin Area Rapid Transit (DART)

- No objection following receipt of Further Information

3.4. **Third Party Observations**

1 letter of objection was received. This is summarised as follows:

- Lived and run business from No. 12 & 13 Ushers Island since 1959
- Proposed height and scale will have a massive detrimental impact on the long established residential amenity of appellant's home
- Will result in overlooking and invasion of privacy
- Appellant's property is not shown correctly in the drawings
- 3D booklet has no detail of rear of property which will be completely overlooked
- Rear of property is south facing and enjoys sun all day – sun terrace will be completely overshadowed and overlooked.
- Proposed block fronting onto Usher's Island will effectively by a six storey wall one building away blocking out light, especially in the morning.

4.0 **Planning History**

- 4.1. 2116/09/x1 – Refused- Extend duration of permission for development approved under Reg. Ref. 2116/09 for one reason:

As the Further Information response was not received within the statutory four week period the application to extend the Planning Permission is therefore deemed to be refused. Please refer to Article 45(3) of the Planning & Development Regulations 2001 (as amended).

- 4.2. 3675/09 - Refused - Modifications to previously approved Planning Permission Ref 2116/09 for two reasons:

Having regard to the additional storey proposed onto Island Street, it is considered that the proposed development would contravene materially a condition attached to an existing permission for development, Condition 3 of Reg. 2116/09 and would therefore be contrary to the proper planning and sustainable development of the area.

Having regard to the restricted width and elongated nature of this site, and to the pattern of development on adjoining properties, it is considered that the proposed development by reason of the additional storey, would be visually obtrusive and out of character with the pattern of development along this stretch of Island Street and would seriously injure the visual amenities of the area. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.

- 4.3. 2116/09 – Granted – 10 Apartments – A condition of note was condition No. 3 which required the omission of an Apartment No. 11 and limiting the height of the proposal to six stories fronting onto Island Street.

- 4.4. PL29S.228245 (5623/07) – Refuse – 16 Apartments for 2 reasons:

Having regard to the restricted width and elongated nature of the site and to the pattern of development on adjoining properties (particularly to the west) it is considered that the proposed development, by reason of its height, the westerly orientation of apartments and the location of external circulation and balcony spaces along the party boundary, would seriously compromise the future use and development potential of these properties. Accordingly, the proposed development would constitute a piecemeal form of development and, therefore, be contrary to the proper planning and sustainable development of the area.

Having regard to the narrow separation distance between the western façade of the apartments and the partly solid and partly open lattice brickwork screen wall on the site boundary it is considered that access to sunlight and daylight within the proposed apartments would be seriously restricted and, thereby, result in a poor visual aspect and a substandard level of residential amenity for future occupants.

The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area

5.0 Policy Context

5.1. Development Plan

Dublin City Development Plan 2016-2022

- 5.1.1. The site is zoned Z5 – To consolidate and facilitate the development of the central area and to identify, reinforce and strengthen and protect its civic design character and dignity.
- 5.1.2. Relevant policies and standards of the Dublin City Development Plan 2016-2022 include:
- Policy CHC2 - To ensure that the special interest of protected structures is protected.
 - Policy CHC4 – To protect the special interest and character of all Dublin’s Conservation Areas
 - Policy CHC5 – To protect Protected Structures and preserve the character and the setting of Architectural Conservation Areas.
 - Appendix 24: Protected Structures and Buildings in Conservation Areas.
 - Section 16.2.1 Design Principles
 - Section 16.2.2.2 Infill Development
 - Section 16.7 of this Plan addresses building height – In the Low-Rise Inner City Area residential development can be up to 24m in height
 - Section 16.10.1 Residential Quality Standards – Apartments – sets out standards to be achieved in new build apartments.
 - Section 16.10.3 Residential Quality Standards – Apartments and Houses
 - Section 16.10.20 Development on Archaeological Sites and in Zones of Archaeological Interest
- 5.2. Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities,

5.3. Natural Heritage Designations

None

6.0 The Appeal

6.1. Grounds of Appeal

The grounds of appeal as submitted by the occupiers of 12 & 13 Usher's Island, Dublin 8 are summarised below:

- Family live and run business from 12 and 13 Usher's Island
- Excessive height of development
- Height should be four storey over basement
- Height of block facing island street and overlooking rear of appellants property is unacceptable.
- Development would be visually obtrusive and out of character with the pattern of development on Island Street and Usher's Island and would seriously injure the visual amenities of the area.
- Development will overlook the appellant's property
- Would result in loss of sunlight and overshadowing
- Noise and disturbance from raised courtyard recreation area and from the balconies.
- Proposed development is overbearing and out of character in terms of its appearance and compared to existing buildings in the middle of Usher's Island and Island Street.
- Proposal would compromise the future use and development potential of appellant's site and other sites in the area.
- Development is inappropriate for an area of historic importance.
- Not opposed to development but should be of a scale, height, character and design that fits in with and conserves this historic part of the city.

6.2. Applicant Response

- Built form is characterised by several architectural styles with building heights ranging from 2-6 storeys, including Viking Harbour apartments which are 6 storeys.
- City Plan advocates heights of up to 24m for residential buildings within the inner city.
- Proposed height will not exceed 19m which is well below the above standard.
- Prevailing building height on Island Street and Bonham Street is 5 storeys with some developments much greater than this.
- Binary Hub development is 5-10 stories.
- Proposed building heights is in keeping with established contemporary building heights already achieved.
- Proposal straddles the Digital Hub complex where increased building heights are proposed.
- Brownfield Sites surrounding the subject site will continue to be developed over time with higher densities and increased building heights.
- Original heights of the buildings at 11-14 Usher's Street were in fact 4 storeys and therefore higher than what the appellant want the current scheme reduced to.
- A number of floors were removed in the 1960's.
- Overall height of the Irish Postmaster Union building to the east is similar in height to the northern elevation of the subject proposal.
- There will be no windows on the west elevation of either blocks facing the appellant's property.
- Courtyard area will include a 1.875m high wall to prevent overlooking of surrounding properties.
- Balconies are located approx. 26m from the rear windows of the appellant's property.

- Shadow assessment shows that some degree of shadowing occurs during the winter months and in the early morning throughout the year.
- All properties are overshadowed by buildings to the east
- Throughout the afternoon the appellant's site is only marginally impacted by the proposals – in the summer months the impact is negligible.
- In the late afternoon the proposed development poses no shadow impact on the appellant's property which instead is impacted by existing blocks to the south and west.
- Overall, impact on appellant's property and other properties is not significant.
- Proposal will not generate significant noise
- Location of the site is not considered to be a noise sensitive location.
- Measures have been incorporated into the design to mitigate against noise – planted wall, raised beds will act as noise screens
- Some potential for noise generation during construction – will be temporary and construction hours can be conditioned.
- Scale and height reflects the character of the area
- Design incorporates modern design features and the proportions of the proposed windows are similar to those of adjoining structures
- No evidence to support claim that development will impact on development potential of properties in the area.
- Design takes account of development potential of neighbouring sites
- Proposal will improve character of the area.
- There are other examples of buildings on narrow sites.
- Increased height promotes wayfinding and legibility along the quays.
- Development is not piecemeal – area is undergoing significant regeneration at present.
- Proposal will contribute to regeneration.

- Proposal is compliant with the objectives of the Liberties LAP and City Plan.
- Conservation report concludes that proposal does not raise any concerns for the protected structures in the area.
- Reinstatement of the 6 stories fronting Usher's Island would not create any detrimental impact on the character of the quays or the residential/visual amenities of the area.
- Building height is below the maximum standard.
- Request that condition No. 3a of the DCC decision be omitted.
- Precedent has already been set for a 6 storey development on this site under Reg. Ref. 2116/09.
- Will provide much needed residential accommodation.

6.3. **Planning Authority Response**

None

6.4. **Observations**

None

6.5. **Further Responses**

A further response was received from the appellant to address the submission from the applicant. This is summarised as follows:

- Applicant has failed to address the issue of excessive height
- Confuse the Pier 19 Apartments with The Atrium Apartments – demonstrates lack of understanding of the area
- Height of The Atrium facing the rear is 3 storeys
- Development at Binary Hub is in a different type of location
- Development is not in line with Development Plan

- Reducing the height by one storey on Usher's Island block is still unacceptable
- 3 to 4 storeys on Island Street would be appropriate
- 3D view diagram submitted by the applicant is inaccurate – does not represent correctly the rear of the appellant's property.
- Proposed development is in fact only 7m from the appellant's property
- Would raise security concerns
- Entitled to have privacy protected and security maintained
- Applicant's submission in relation to overshadowing has misconstrued the layout of appellant's property
- Rear of property and terrace will be completely overshadowed.
- The raised courtyard area will result in noise and disturbance and the applicant's assertion that the planted wall and raised flower bed will act as a noise screen is not accurate.
- Applicant's submission that the windows are similar to those of surrounding properties is false.
- References to other sites have no relevance
- Overriding criteria for the scheme is financial
- Would be a miscarriage of justice to grant permission for this development

7.0 Assessment

7.1.1. The following assessment covers the points made in the appeal submissions, and also encapsulates my *de novo* consideration of the application. The main planning issues in the assessment of the proposed development are as follows:

- Principle of Development
- Conservation and design/Impact on Protected Structures
- Traffic, access, and parking/Dart Underground
- Development standards

- Residential amenity
- Appropriate Assessment

7.2. Principle of Development

- 7.2.1. Under the CDP, the site is zoned Z5. Residential is a permissible use within this zone and as such there is no in principle land use objection to the residential use of this site.
- 7.2.2. The planning history of the site indicates that permission has previously been granted for 10 apartments on this site within a building that was six storeys high to Usher's Island, with a set back at fifth floor level, and six storeys to Island Street (after receipt of further information and after the modifications required by condition).
- 7.2.3. There is then precedent for a residential scheme of some height on the site. However, it is noted that this was granted under a previous Development Plan. There has also been a previous refusal of on the site for a scheme of 16 units for a building that was six storeys to Ushers Island and twelve storeys to Island Street.

7.3. Conservation and design/Impact on Protected Structures

- 7.3.1. In terms of the height proposed, it is noted that the proposal is for two six storey blocks onto Usher's Island and Island Street. Condition No. 3 (a) of the Council's notification of decision requires the omission of the sixth storey onto Usher's Island, which would result in a five storey elevation onto Usher's Island and six stories onto Island Street. I note that the applicant has not formally appealed this condition (although it is noted that within the response to the third party appeal, it is requested that Condition 3(a) be omitted).
- 7.3.2. In relation to the historical height of the neighbouring buildings at 11-14 Usher's Island, from the evidence submitted, they were at one point 6 storeys onto Ushers Island. The prevailing building height along Usher's Island generally ranges from 2 to 5 storeys with a similar prevailing height along Island Street. I note there are taller buildings to the south-east of the site fronting on Bonham Street (The Binary Hub Student Accommodation) which range from 5 to 10 storeys in height.
- 7.3.3. The CDP allows a height of up to 24m for residential schemes in the Inner City. The current proposal is a maximum of 20m in height. As such it is within the limitations of this height restriction.

- 7.3.4. However, given the prominence of the Usher's Island elevation, the prevailing building height along Usher's Island and the historical setting of the site (see discussion below in relation to Protected Structures), it is appropriate to limit the height of the frontage onto Usher's Island to 5 storeys.
- 7.3.5. In relation to the Island Street frontage, I note that this has a similar prevailing building height to Usher's Island. However, it is a less prominent frontage with higher scale development to the south of the site. As such there is scope on this frontage for the 6 storey height currently proposed.
- 7.3.6. In relation the scale, bulk and massing of the proposal, this is reduced from that approved previously on this site. The site itself is constrained on all sides and demands a design solution that is appropriate to the site. As such the massing and bulk of the development is concentrated on the Usher's Island and Island Street ends of the site, with the massing being reduced as one approaches the centre of the site. Related to the height issue above, the bulk and massing of the proposal as viewed from the east and west elevations on the Usher's Island end of the site is excessive and should be reduced accordingly. This can be achieved by the omission of the top storey along Usher's Island. Subject to this omission, I consider the scale, bulk and massing appropriate.
- 7.3.7. In relation the detailed design, the approach taken is a contemporary one, drawing references from surrounding development in terms of materials but the detailed design being distinctly modern with an asymmetrical window pattern and relatively large areas of glazing to the Usher's Island and Island Street elevations. I consider this design approach appropriate for the site, as its narrowness does not lend itself to a Georgian pastiche rather it demands an alternative approach. The approach taken in this instance is successful, subject to the omission of the top storey onto Usher's Island, and subject to minor amendments to the Usher's Island elevation.
- 7.3.8. I note that condition 3(b) requires the floor to ceiling height to be increased to 3m on the Usher's Island Frontage, in order to increase the prominence of this frontage. I concur with the view of the Local Authority, that there should be a prominence given to the Usher's Island frontage and I am satisfied that the requirements of Condition 3(b) address this issue.

- 7.3.9. In relation to the impact on the development potential of adjoining sites, the glazing proposed on the east and west elevations does have the potential to impact on the development potential of these sites and should be omitted by way of condition.
- 7.3.10. In relation to the impact on neighbouring Protected Structures I note that in the immediate vicinity, there are 5 Protected Structures including the two-storey stone warehouse beside the HSE Eastern Region Day Centre on Usher's Island, backing onto Island Street, 9 Usher's Island (Granite walls and gates to former Mendicity Institute (Moir House) and 12, 14 and 15 Usher's Island.
- 7.3.11. Having regard to the design discussion above, I consider the height, scale and massing to be appropriate with an overall appearance which respects the context of the site and the surrounding area. As such there will not be a detrimental impact on the setting of the aforementioned Protected Structures. Furthermore, the proposal will improve the visual amenity of an underutilised and visually unattractive site which will be a positive addition to the streetscape.

7.4. Traffic, access and parking/Dart Underground

- 7.4.1. No on-site parking is proposed. Given the constraints of the site and the inner-urban location of the site, which is well served by public transport, this is acceptable. There is pedestrian access from both the Usher's Island and Island Street frontages. The proposal does not raise any road safety issues nor will it generate significant additional vehicular movements.
- 7.4.2. The DART Underground Office has stated that they are satisfied that the development will not compromise the integrity of the DART Underground.

7.5. Development Standards

- 7.6. The CDP's development standards replicate those that are set out in the Sustainable Urban Housing: Design Standards for Apartments Guidelines. The proposal meets and exceeds the standards required, including those for overall floor areas, individual room dimensions, floor to ceiling heights, storage, and private and communal open space.
- 7.7. All of the units are dual aspect and will receive sufficient internal daylighting and cross ventilation.

7.7.1. There is an area of public open space to the Usher's Island frontage. I do not consider that this will function as public open space given the raised planting hedge proposed which will form a boundary to the space, resulting in an appearance of private open space associated with the development. In any case the area provided is so small as to be virtually unusable as public open space. In this case a payment in lieu should be provided towards public open space.

7.7.2. In relation to cycle parking, I note there is 10 spaces proposed. This meets the standards in the CDP.

7.8. Residential Amenity

7.9. It is noted there are residential uses to the west of the site on both Usher's Island and Island Street. I note there are residential uses on the upper floors of 12 and 13 Usher's Island, and there also appears to be residential over No. 11 Usher's Island, with windows which face indirectly towards the site. The Atrium Apartments on Island Street also have windows which face indirectly towards the appeal site.

7.10. In relation to the impact on residential amenity I have given consideration to the following: loss of natural light or overshadowing, outlook, overlooking/loss of privacy and impacts from construction

7.11. The applicants have submitted a shadow analysis as part of the appeal response. This indicates that there is overshadowing during the winter months and in the early morning throughout the year. Given this is an inner urban site I do not consider there is an undue impact on surrounding residential amenity, having regard to overshadowing. It is further noted that the impact will be reduced as a result of the omission of the sixth storey on the Usher's Island frontage.

7.12. In relation to outlook, the proposal will impact on outlook to the west from No.'s 11, 12 and 13 Usher's Island, and also to the properties to the south (Atrium Apartments) as the built form extends deeper and higher than these properties. In relation to the properties on Usher's Island, the impact can be mitigated however by the omission of the top floor of the Usher's Island block, which will reduce the overall height of the proposal. There is sufficient outlook to the south, east and north from these properties with the proposal in place. In relation to the impact on the Atrium Apartments, I note that the built form of the proposal will be visible from the north facing windows of these units, but the impact on outlook is not so great as to warrant

a refusal in this instance. There is sufficient outlook remaining to the north and east from these units with the proposal in place.

7.13. In relation to loss of privacy, I note there is approximately 26m from the rear of the buildings at 11, 12 and 13 to the facing balconies of the proposed development, to the rear of the Island Street block. There is approximately 15m from the rear windows of the Atrium Apartments to the facing balconies on the Usher's Island block. Given the inner urban context of the site, these distances are sufficient to ensure that there is no undue overlooking resulting from the proposal. The planted wall serving the communal area is sufficiently high to ensure that there is no overlooking from this area.

7.13.1. In term of impacts arising from the construction period, it is noted that these impacts are temporary and are necessary to complete the proposed development. Furthermore, these can be appropriately minimised and mitigated by the attachment of appropriate conditions to a grant of permission, should the Board be minded to grant permission, and deem such mitigation of negative impact necessary.

7.14. Appropriate Assessment

7.14.1. The site is neither in nor near to a Nature 2000 site. However, there are a number of Natura 2000 sites with a 15km radius of the proposal site including 7 SPA's (North Bull Island SPA, Baldoyle Bay SPA, South Dublin Bay and River Tolka Estuary SPA, Broadmeadow/Swords Estuary SPA, Wicklow Mountains SPA, Dalkey Islands SPA). The closest SPA's to the site are the North Bull Island SPA which is 3.8km to the north-east of the Site and South Dublin Bay and River Tolka SPA which is 4.8km to the south-east of the site.

7.14.2. There are 9 SACs within 15km of the site (Baldoyle Bay SAC, Howth Head SAC, Malahide Estuary SAC, North Dublin Bay SAC, South Dublin Bay SAC, Glenasmole Valley SAC, Rye Water Valley/Carlton SAC, Wicklow Mountains SAC and Rockabill to Dalkey Island SAC). The closest SAC is the South Dublin Bay SAC which is 4.8km to the south-east of the site.

7.14.3. The proposal is located approximately 15m from the River Liffey, which could provide a pathway to a number of those Natura 2000 sites identified above. However, given the proposal will be linked to the combined foul and surface water sewerage network, it is unlikely that any contaminants will enter the River Liffey from

this development during its occupation. During the construction stage, a Construction Management Plan should be adhered to which should include proposals to prevent any contaminants from the site entering the River.

7.14.4. The proposal would also be linked to the South Dublin Bay SPA and SAC, and to the North Bull Island SPA and North Dublin Bay SAC via the combined foul and surface water public sewerage network that discharges to the Ringsend WWTP. Periodic storm water surges through this Plant can lead to a decrease in the water quality of the Bay. However, the Conservation Objectives of the said Natura 2000 sites do not refer to water quality. Furthermore, the scale of water treatment occurring at the Plant is such that the contribution of the proposal would be negligible. There are no obvious pathways to the other aforementioned Natura 2000 sites.

7.14.5. Having regard to the nature and scale of the proposed development, the nature of the receiving environment, and the proximity to the nearest European Site, no Appropriate Assessment issues arise and it is not considered the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

8.0 Recommendation

8.1. I recommend that planning permission should be granted, subject to conditions, as set out below.

9.0 Reasons and Considerations

9.1. Having regard to the zoning objective for the site, the pattern of development in the vicinity and the policies of the current Dublin City Development Plan 2016-2022, it is considered that the proposed development would not seriously injure the residential or visual amenity of the area and would not detract from the character or setting of the adjacent 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 Day of November 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 The proposal should be amended as follows:

(a) The fifth floor facing Usher's Island shall be omitted. This shall involve the omission of Apartment No. 5 (and its balcony).

(b) The Building Line on Island Street shall be set back by 0.6m.

(c) The floor to ceiling height of the proposed entrance lobby facing Ushers Island shall be increased to 3.0m.

(d) The projecting balcony to Apartment No. 3 shall be omitted and replaced with a recessed balcony.

(e) All balconies on the Usher's Island elevation shall be finished in brick.

(f) The spandrel panels between floors facing Usher's Island shall be omitted, and the elevation finished in brick.

(g) The glazing and glass blocks on both the eastern and western elevations of both blocks shall be omitted.

(h) The PPC Aluminium cladding at ground floor level facing Usher's Island shall be replaced by brick.

(i) Entrance gates to Island Street elevations, including entrances to bin stores, shall have doors that open inward only and do not open out to the public footpath.

Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to

commencement of development.

Reason: In the interests of visual and residential amenity.

- 3 A schedule and appropriate samples of all materials to be used in the external treatment of the development, to include proposed brick, cladding, roofing materials, windows, doors and gates, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: To ensure an appropriate standard of development.

- 4 The internal noise levels, when measured at the first floor windows of the Usher's Island elevation, shall not exceed:

- (a) 35 dB(A) LAeq during the period 0700 to 2300 hours, and
- (b) 30 dB(A) LAeq at any other time.

A scheme of noise mitigation measures, in order to achieve these levels, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The agreed measures shall be implemented before the proposed dwellings are made available for occupation.

Reason: In the interest of residential amenity.

- 5 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.

- 6 Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

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

- 7 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.

- 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 residential amenity.

- 9 (a) The communal open space, including hard and soft landscaping, access ways, refuse/bin storage areas, cycle storage and all areas not intended to be taken in charge by the local authority, shall be maintained by a legally constituted management company

(b) Details of the management company contract, and drawings/particulars describing the parts of the development for which the company would have responsibility, shall be submitted to, and agreed in writing with, the planning authority before any of the residential units are made available for occupation.

Reason: To provide for the satisfactory future maintenance of this development in the interest of residential amenity.

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

(b) This plan shall provide for screened communal bin stores, the locations and designs of which shall be included in the details to be submitted.

Reason: In the interest of residential amenity, and to ensure the provision of adequate refuse storage.

- 11 Proposals for a name for the apartment block and apartment numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the apartment block name and apartment numbers, shall be provided in accordance with the agreed scheme. No advertisements/

marketing signage relating to the name of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name.

Reason: In the interests of urban legibility and to ensure the use of locally appropriate place names for new residential areas.

- 12 Prior to commencement of development, the applicant or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the provision of housing in accordance with the requirements of section 94(4) and section 96(2) and (3) (Part V) of the Planning and Development Act 2000, as amended, unless an exemption certificate shall have been applied for and been granted under section 97 of the Act, as amended. Where such an agreement is not reached within eight weeks from the date of this order, the matter in dispute (other than a matter to which section 96(7) applies) may be referred by the planning authority or any other prospective party to the agreement to An Bord Pleanála for determination.

Reason: To comply with the requirements of Part V of the Planning and Development Act 2000, as amended, and of the housing strategy in the development plan of the area.

- 13 The developer shall pay to the planning authority a financial contribution as a special contribution under section 48(2) (c) of the Planning and Development Act 2000 in respect of Public Open Space. The amount of the contribution 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 for determination. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be updated at the time of payment in accordance with changes in the Wholesale Price Index – Building and Construction (Capital Goods), published by the Central Statistics Office.

Reason: It is considered reasonable that the developer should contribute

towards the specific exceptional costs which are incurred by the planning authority which are not covered in the Development Contribution Scheme and which will benefit the proposed development.

- 14 The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, 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.

Rónán O'Connor
Planning Inspector

24th April 2017