



An
Bord
Pleanála

Inspector's Report PL29N.248816

Development	Demolition of buildings to rear and construction to part-single, part-two storey building comprising 10 rooms serving as extension to B&B facility
Location	Kelly's Row, Rear of 17 & 18 Gardiner Street Upper, Dublin 1
Planning Authority	Dublin City Council
Planning Authority Reg. Ref.	4200/16
Applicant(s)	Niall Duffy
Type of Application	Permission
Planning Authority Decision	Grant
Type of Appeal	Third-Party
Appellant(s)	Emer Brennan
Observer(s)	None
Date of Site Inspection	2 nd October 2017
Inspector	Colm McLoughlin

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1.0 Site Location and Description

- 1.1. The appeal site is located on the northside of Dublin city centre, to the rear of Nos. 17 and 18 Gardiner Street Upper, backing onto Kelly's Row and opposite the rear of Temple Street Children's Hospital. Access to Kelly's Row is available from Dorset Street and off Gardiner Place via St. Anthony's Place. Kelly's Row primarily serves as a rear access lane to properties along Gardiner Street Upper with footpaths only available intermittently.
- 1.2. It contains two structures, which are separated by a narrow external passageway closed at both ends. The largest of these structures is located on the northern side and is a part-single, part-two storey structure with roof pitch approximately 7.5m in height. This building is stated as being most recently used as a builders' store. To the south of this is a single-storey pitch roof structure with roof height of approximately 3.6m, which is stated to be in use as a garage and a shed for the Bed & Breakfast (B&B) facility, known as Fatima House or Gable House, which fronts onto Gardiner Street Upper and is within the applicant's landholding. Access to both structures is available directly off Kelly's Row and from the rear of Nos. 17 and 18.
- 1.3. The rear gardens to Gardiner Street Upper are reasonably deep and an array of uses have been established within them backing onto Kelly's Row. Adjacent to the south of the smaller structure on site is a five-storey residential block at 15/16 Kelly's Row. Properties in the immediate area along Gardiner Street Upper are used for a variety of purposes including B&B guesthouses. No. 18 Gardiner Street Upper is a house in multiple occupation. Ground levels in the vicinity are relatively flat, with only a slight drop moving southwards towards Gardiner Place.

2.0 Proposed Development

- 2.1. The proposed development comprises the following:
 - Demolition of two structures including a part-single, part-two storey pitch roof former-builders' store and a single-storey pitch-roof garage and shed associated with a B&B facility;
 - Construction of a two-storey flat-roof building with a parapet height of c.5.9m, to serve as an extension to a B&B facility, comprising ten additional bedrooms

each with en-suite washroom facilities, and a garage and workshop with access off Kelly's Row;

- Provision of an enclosed pedestrian access passageway centrally through the proposed building leading from Kelly's Row to the rear of Nos. 17 and 18 Gardiner Street Upper.

2.2. The Application was accompanied by a cover letter, which included a brief Conservation Impact Statement and records from the National Inventory of Architectural Heritage (NIAH) for Nos. 17 and 18 Gardiner Street Upper.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. The Planning Authority decided to grant permission subject to 12 conditions, the majority of which are generally of a standard nature, but also including the following requirements:

C.2 Section 48 Development Contributions;

C.3 Development to form part of the B&B facility at No. 17 Gardiner Street Upper and shall not be separated from No. 17 by sale or lease. Rear access off Kelly's Row will only be used as a secondary access to No. 18;

C.4 Two rooms in the existing B&B facility shall not be used as bedrooms;

C.12 Cash Deposit or Bond.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The initial report of the Planning Officer (January 2017) noted the following:

- No demolition of original mews building proposed, therefore no objection on conservation grounds;
- It is essential that the proposed rooms are linked with the main B&B facility;

- Design features are incorporated into the elevation facing the rear of Gardiner Street Upper properties, to address potential for overlooking;
- Further information was sought in relation to:
 - Details of the existing B&B facility and proposed interconnectivity;
 - Boundary works with Nos. 18 and 19 Gardiner Street Upper;
 - Shadow Analysis;
 - Clarification regarding the use of the workshop / garage proposed.

The second report of the Planning Officer (June 2017) reflects the decision of the Planning Authority and noted the following:

- Proposals will increase the B&B facility from 16 bedrooms to 26 bedrooms with no new shared facilities proposed;
- Proposals would have no material impact on sunlight and daylight;
- Proposed garage/workshop space would be used by B&B owner and the response regarding boundary works is acceptable;
- Standards for B&B accommodation considered and it is noted that two bedrooms in the existing facility, without the benefit of planning permission, are below standards and should be conditioned to form shared facilities for guests;
- An alternative finish, such as brick, should be used onto Kelly's Row elevation.

3.2.2. Other Technical Reports

- Engineering Department (Drainage Division) - no objection subject to conditions;
- Waste Regulation Section (Waste Management Division) – recommends conditions to be attached;
- Conservation Section – recommends a grant of permission;
- Roads & Traffic Section (Planning Division) – no response.

3.3. Prescribed Bodies

- Irish Water – no response;
- Heritage Council – no response;
- Minister for Arts, Heritage & the Gaeltacht – no response;
- An Taisce – no response.

3.4. Third-Party Submissions

3.4.1. Two submissions were received during consideration of the application from the neighbouring residents at No. 18 and 19 Gardiner Street Upper. The submission from the resident at No. 18 raised similar issues to those referred to in the grounds of appeal below. The submission from the resident at No. 19 raised the following issues:

- Overlooking of rear garden to No. 19;
- Overdevelopment of the site;
- Impact of the proposals on the enjoyment of rear amenity space;
- Boundary wall works.

4.0 Planning History

4.1. Subject Site

4.1.1. None.

4.2. Surrounding Sites

4.2.1. There have been numerous recent planning applications on neighbouring properties, including the following decided by the Planning Authority:

- 11 & 12 Gardiner Street Upper – Ref. 2707/08 – Permission **granted** (June 2008) for amendment to previous permission (Ref. 1238/04) to provide basement level with 7 parking spaces to serve the permitted apartment block;

- 15 & 16 Kelly's Row – Ref. 4610/06 – Permission **granted** (October 2006) for five-storey building with retail unit at ground floor (120sq.m) and 8 apartments at upper levels;
- Kelly's Row, Rear of 22, 23 & 24 Gardiner Street Upper – Ref. 5225/05 – Permission **granted** (March 2006) for demolition of rear buildings and construction of a five-storey building with 16 apartments.

5.0 Policy Context

5.1. Development Plan

- 5.1.1. The appeal site has a zoning objective 'Z1 - Sustainable Residential Neighbourhoods' within the Dublin City Development Plan 2016-2022 with a stated objective "to protect, provide and improve residential amenities". B&B uses are 'open for consideration' on lands zoned 'Z1'. Buildings fronting onto Gardiner Street Upper, including Nos. 17 and 18, have a zoning objective 'Z8 – Georgian Conservation Areas', with a stated objective "to protect the existing architectural and civic design character, and allow only limited expansion consistent with the conservation objective". No. 17 is not a Protected Structure, while No. 18 is a Protected Structure. No. 17 forms part of the Mountjoy Square Architectural Conservation Area (ACA) along with the garage and shed building to the rear, subject of this appeal. No. 18 and the store to the rear are not within the ACA.
- 5.1.2. Section 6.5.3 of the Plan refers to 'tourism and visitors', and notes that it is important to continue to develop tourism infrastructure such as visitor accommodation of various types.
- 5.1.3. Chapter 11 of the Plan provides guidance on development comprising or in the curtilage of Protected Structures and within ACAs. Policy CHC4 requires that development in ACAs should contribute positively towards the character and distinctiveness of the respective area.
- 5.1.4. Section 16.11 of the Development Plan sets out that in determining planning applications for change of use of properties in residential areas to B&Bs, guesthouses, hotels or hostels, the following will be considered:

- Size and nature of facility;
- The effect on the amenity of neighbouring residents;
- The standard of accommodation for the intended occupiers of the premises;
- The availability of adequate, safe and convenient arrangements for car parking and servicing;
- The type of advertising proposed;
- The effect on listed buildings and/or conservation areas;
- The number of existing facilities in the area.

5.1.5. Section 16.38 and Table 16.1 outlines the maximum car parking requirement for Guesthouses in this part of the city, as one space per four bedrooms.

5.1.6. Appendix 21 to the Plan provides the following land-use definition for a B&B:

- A building, or part thereof, where sleeping accommodation and breakfast are available solely to residents. Such an establishment is distinguished from a guesthouse, which is regarded as a more intensive form of land-use where the possibility of additional meals to be provided for residents exists.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. The appellant resides in the property at No. 18 Gardiner Street Upper. The appeal site is located directly to the rear of this. The principal grounds of appeal to the proposed development can be summarised as follows:

- Impact on right of way access connecting No. 18 with Kelly's Row;
- Loss of privacy - with glazed openings to first-floor Bedrooms 9 and 10 only 7m from a bedroom window in No. 18;
- First-floor balconies to Bedrooms 9 and 10 should be omitted and glazed doors should be replaced with windows to include additional screening;
- First-floor window to Bedroom 5 facing No. 18 should be high-level only (1.8m above internal floor level) to avoid overlooking and privacy concerns;

- Proposals should not impinge on neighbouring property rights and the Board should instruct the developer to seek permission from the adjoining owner for works along the boundaries;
- Gate to the rear of the property (access to a right of way) should remain in situ.

6.1.2. A set of Illustrations and photographs accompanied the Grounds of Appeal.

6.2. Applicant's Response

6.2.1. A response to the grounds of appeal was received on behalf of the first party from Hendrik W van der Kamp, Town Planner, which may be summarised as follows:

Measures to address Privacy Concerns

- Window to Bedroom No. 5 is narrow, with a cill height of 1.5m above internal floor area and recessed 2m behind the rear wall. Applicant would be willing to increase the window cill height to 1.8m.
- Bedrooms 9 & 10 are not served with balconies;
- Windows to Bedrooms 9 & 10 are directed to the rear of No. 17 and only offer oblique views towards No. 18. Applicant would be willing for these windows to be top hung;

Boundary Wall

- Applicant would hope to come to an agreement with the appellant regarding works to the boundary wall;
- The proposed development is not dependent on the works to the boundary;

Replacement Gate

- Doors enclosing the right of way must be of robust design in particular for fire, safety and security purposes;
- A revised entrance treatment off Kelly's Row is recommended to address the need for high quality and durable materials, as per a condition of the Planning Authority decision;
- The right of way is a legal issue, nevertheless, this is maintained.

6.3. Planning Authority Response

6.3.1. The Planning Authority did not respond to the grounds of appeal.

6.4. Observations

6.4.1. None.

7.0 Assessment

7.1. Introduction

7.1.1. I consider the main planning issues arising from the grounds of appeal and in assessing the proposed development are as follows:

- Principle of the Development;
- Impact on Residential Amenities;
- Impact on Architectural Heritage;
- Other Matters.

7.2. Principle of the Development

7.2.1. In accordance with the Dublin City Development Plan 2016-2022, B&B facilities are 'open for consideration' on the appeal site, which is zoned "Z1 - Sustainable Residential Neighbourhoods'. I note that Section 16.11 of the Development Plan sets out general principles for consideration when assessing proposals specifically involving 'change of use' applications for B&B facilities in residential areas. While not strictly applying to the subject proposals, given that a 'change of use' is not proposed, I consider that the principles are pertinent in assessing whether or not the subject development would be in accordance with the proper planning and sustainable development of the area. Principles relating to the impact on neighbouring amenities and impact on architectural heritage are considered separately under the respective headings below.

7.2.2. The proposed development would result in the B&B facility extending from an existing 16 bedrooms to 26 bedrooms. There are numerous B&B guesthouse facilities in the immediate area offering similar accommodation and facilities for

tourists. With regard to the size and nature of the facility, I am satisfied that given the city centre location and appeal site zoning, the principle of extending the existing facility for ten additional bedrooms is acceptable. Section 6.5.3 of the Development Plan notes that it is important to continue to develop tourism infrastructure such as visitor accommodation of various types, and I consider that the subject proposals would be in keeping with this overarching approach. The Development Plan requires set-down service space and 1 car park space for every four bedrooms. A bus lane exists to the front of the B&B and there would be no set-in along Kelly's Row. However, considering the city centre location, as well as the scale and nature of the facility, I consider there is ample rationale for not requiring these facilities to be provided on the subject landholding and I consider that the proposals would not result in traffic hazard and would accord with the standards outlined in Section 16.38 of the Development Plan. Matters relating to the standard of accommodation and interconnectivity with the existing B&B are addressed separately below under the heading 'Other Matters'.

- 7.2.3. In conclusion, I am satisfied that the principle of extending the subject B&B facility on the appeal site, at the scale and for the accommodation type proposed, is acceptable in principle, subject to the planning and environmental considerations assessed below.

7.3. Impact on Residential Amenities

- 7.3.1. The proposed development would occupy almost the same footprint as the existing buildings and would not reduce residential amenity space. I consider that the proposed building would not be any more overbearing when viewed from neighbouring properties than the existing buildings, particularly given the reduction in overall height of the proposed building when compared with the existing former builders' store. Accordingly, the primary matters for consideration regarding the impact of the proposed development on residential amenities relate to access to light and impact on privacy.
- 7.3.2. In response to a request for further information, the application included a series of 'Shadow Study' visuals and the applicant asserts that these visuals reveal that the proposals would have minimal effect in terms of restriction of light to neighbouring properties when compared with the present situation. The proposed building would

be of a reduced scale and height than the existing building closest to No. 18 and would be on the northside of an existing five-storey apartment block. Accordingly, potential for the proposed development to further restrict sunlight and daylight to neighbouring properties would be very limited. While recognising that the proposed building would to some degree overshadow adjoining areas, I believe that this would be less than experienced at present and, therefore, would not have a negative impact on neighbouring amenities in this regard. In conclusion, I consider that the proposed development would not unduly affect third-party amenities via loss of sunlight or daylight or via excessive overshadowing of properties.

- 7.3.3. The grounds of appeal primarily focus on the impact of the proposed development on the residential amenities of their home at No. 18 and in particular the potential loss of privacy, as a result of overlooking from the new B&B bedroom windows. No. 18 is a house in multiple occupation. The appellant at No. 18 is concerned that the proposed development would result in overlooking at first-floor level of the bedsit in the rear return and the applicant's response notes the various design features incorporated into the proposals to mitigate against same.
- 7.3.4. At first-floor level facing the rear of properties along Gardiner Street Upper, the proposed building would feature windows to three bedrooms (5, 9 and 10). These windows would be 9.2m to 9.8m from the nearest bedsit window in No. 18. Bedroom 5 would feature three narrow high-level windows with a cill height at 1.5m above internal floor level (as per Section B-B of Drawing No. 3.01). In response to the appeal, the applicant has advised that they are agreeable to having the cill height increased to 1.8m above internal floor area to reduce the potential for overlooking and I consider that this would be necessary.
- 7.3.5. The windows to Bedrooms 9 and 10 open onto a balconette ('Juliet-style' balcony) and are side opening. These windows would face directly onto the rear of the existing B&B at No. 17, and the applicant asserts that they would only offer oblique views towards the rear of No. 18. To address potential for overlooking from these windows the applicant suggests conditioning that these windows are top hung. Considering the proportions, including width and depth, and the corner room positioning of these windows, I consider that these windows would not result in excessive direct overlooking of the neighbouring property, including the nearest bedsit window. I consider that the offer of the applicant to only allow for these

windows to be top hung only is reasonable in these circumstances and a condition should be attached to address same. Subject to a condition addressing the rear-facing windows, I consider that the proposal would not result in an unacceptable level of overlooking.

- 7.3.6. Accordingly, the development would not give rise to unacceptable impact on residential amenity and should not be refused for this reason.

7.4. Impact on Architectural Heritage

- 7.4.1. The existing building is located to the rear of Nos. 17 and 18 Gardiner Street Upper, but only No. 18 is a Protected Structure. However, No. 17, including the existing shed building to the rear of this, subject of the appeal, is included in the Mountjoy Square ACA. No. 18 and the structure to the rear, subject of this appeal, are not within the ACA. Both Nos. 17 and 18 are included in the NIAH for regional importance.
- 7.4.2. The building to the rear of No. 18 was most recently used as a builders' store and historical mapping reveals that this once formed part of the curtilage to the Protected Structure. The Conservation Statement issued by the applicant's agent, Denis Byrne Conservation Architect Grade III, notes this former builders' store was separated from the landholding at some stage in the past. Mountjoy ACA statement identifies that original mews buildings associated with houses such as that at No. 17 would have incorporated Georgian features, which had significance. I note that the Conservation Section of Dublin City Council consider that the former builder's store to the rear of No. 18 and the garage to the rear of No. 17 are not original mews buildings and are therefore of limited significance. Further to this, features of historical architectural heritage outlined within the NIAH records for Nos. 17 and 18 do not refer to the rear outbuildings and primarily relate to the internal decoration and frontage of these properties onto Gardiner Street Upper.
- 7.4.3. Views of the proposed development from the front street area along Gardiner Street Upper would not be available. The proposed building would primarily be visible along Kelly's Row and from the rear of the neighbouring buildings along Gardiner Street Upper. The proposed development would introduce a building of less scale, bulk and height than that existing on site and would provide an opportunity for an improved frontage onto Kelly's Row. The condition suggested by the Planning

Authority requiring high quality durable materials along Kelly's Row appears reasonable in this regard. As noted above, the proposed development would replace existing structures which are not of particular architectural or historical merit. The setting along Kelly's Row has already been significantly compromised by the replacement of the original mews buildings, including the five-storey apartment block adjoining the appeal site.

- 7.4.4. I consider that the setting of the Protected Structure at No. 18 and the character of the Mountjoy Square ACA would not be significantly affected by virtue of the proposed replacement of the subject mews buildings, which are not original. I conclude therefore that no serious impact will result on the setting or appearance of neighbouring Protected Structures or Mountjoy Square ACA, as a result of the proposed development.

7.5. Other Matters

- 7.5.1. I note that the Planning Authority included a condition requiring two bedrooms within the facility to no longer be used as bedrooms, given their minimal size, and these should be used as shared space to serve the extended B&B. There are no statutory planning requirements relating to minimum room sizes for B&B facilities. While I note that the applicant has not contested this condition, and in light of the B&B land-use definition contained within the Development Plan, I do not consider it necessary or reasonable to attach such a condition. However, it is essential that the proposed additional rooms are linked with the main B&B facility and a condition requiring same would be appropriate.
- 7.5.2. The existing buildings amount to c.125sq.m and the proposed development would have a stated floor area of c.285sq.m. This would result in a net increase in floor area of c.160m. The decision issued by Dublin City Council attached a condition requiring the payment of a standard Section 48 Contribution, however, I note that this decision did not attach a Supplementary Development Contribution (under Section 49 of the Planning & Development Act 2000, as amended) towards the Luas Cross City project. Such a Supplementary Development Contribution is appropriate and a condition should be attached requiring same.
- 7.5.3. The grounds of appeal raise matters relating to rights of way and property rights and I note the applicant's response to these matters. Such issues are civil matters and I

do not propose to adjudicate on these issues. I note here the provisions of Section 34(13) of the Planning & Development Act 2000, as amended and 'Issues relating to Title of Land' referred to in Chapter 5.13 of the 'Development Management - Guidelines for Planning Authorities' (DoECLG June 2007).

8.0 Appropriate Assessment

Having regard to the minor nature of the proposed development and the location of the site in a serviced urban area and the separation distance to the nearest European site, no Appropriate Assessment issues arise and it is not considered that the development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

9.0 Recommendation

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

10.0 Reasons and Considerations

Having regard to the zoning, nature and scale of the proposed development, and the existing pattern of development in the vicinity, including the existing B&B facility at No. 17 Gardiner Street Upper and the city centre location, it is considered that subject to compliance with the conditions below, the proposed development would not detract from the character or setting of the neighbouring Protected Structures or the Mountjoy Square Architectural Conservation Area, would not seriously injure the residential amenities of the area or of property in the vicinity and would be acceptable in terms of traffic safety. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

11.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by further information received by the planning authority on the 11th day of

May 2017, 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 proposed development shall be amended as follows:
 - (a) The minimum cill height for the first-floor rear elevation windows serving bedroom 5 as shown on Drawing Nos.4.02 and 3.01 (Section B-B) shall be no less than 1.8m above the internal floor level for this bedroom;
 - (b) The windows serving bedrooms 9 and 10, as shown on Drawing Nos. 4.02 and 3.01 (Section A-A) shall be top hung only.

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 interest of residential amenity.

- 3 The permitted development shall form part of the bed and breakfast facility at No. 17 Gardiner Street Upper and all shared facilities in No. 17 shall be available to residents of the new facility. The building shall not be separated from No. 17 by sale or lease without the grant of a separate planning permission. The access from Kelly's Row shall be used only as a secondary entrance/emergency escape and as a right of way to No. 18.

Reason: To protect the amenities of property in the vicinity.

4. Details of the materials, colours and textures of all the external finishes to the proposed buildings shall be submitted to, and agreed in writing with, the

planning authority prior to commencement of development. The external finish to Kelly's Row shall consist of a high quality and durable material, such as brick.

Reason: In the interest of the visual amenities of the area, including the Mountjoy Square Architectural Conservation Area.

5. 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 and to ensure a proper standard of development.

6. Notwithstanding the provisions of the Planning and Development Regulations 2001, or any statutory provision amending or replacing them, no advertisement signs (including any signs installed to be visible through the windows), advertisement structures, banners, canopies, flags, or other projecting elements shall be displayed or erected on the buildings or within the curtilage of the site, unless authorised by a further grant of planning permission.

Reason: To protect the visual amenities of the area.

7. The site development works and construction and demolition works shall be carried out in such a manner as to ensure that the adjoining streets are kept clear of debris, soil and other material and if the need arises for cleaning works to be carried out on the adjoining public roads, the said cleaning works shall be carried out at the developer's expense.

Reason: To ensure that the adjoining roadways are kept in a clean and safe condition during construction works in the interest of orderly development.

8. Site development and building works shall be carried out between the hours of 0800 to 1800 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays or public holidays. Deviation from these times shall 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.

9. Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the “Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects”, published by the Department of the Environment, Heritage and Local Government in July 2006.

Reason: In the interest of sustainable waste management.

10. 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 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.

Reason: To provide for the appropriate management of waste and, in particular recyclable materials, in the interest of protecting the environment.

11. 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.

12. The developer shall pay to the planning authority a financial contribution in respect of the Luas Cross City Project, in accordance with the terms of the Supplementary Development Contribution Scheme made by the planning authority under section 49 of the Planning and Development Act 2000, 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 Supplementary Development Contribution Scheme made under section 49 of the Act be applied to the permission.

13. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or such other security as may be acceptable to the planning authority, to secure the reinstatement of public roads which may be damaged by the transport of materials to the site, coupled with an agreement empowering the planning authority to apply such security or part thereof to the satisfactory reinstatement of the public road. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

Reason: In the interest of traffic safety and the proper planning and sustainable development of the area.

Colm McLoughlin
Planning Inspector

9th October 2017