



An
Bord
Pleanála

Inspector's Report PL29.248945

Development

Demolition of roof structure and construction of additional storey as extension for restaurant/bar/event centre, with modifications to extend door (currently redundant) for access purposes.

Location

4-7 Fade Street, Dublin 2.

Planning Authority

Dublin City Council

Planning Authority Reg. Ref.

2860/17

Applicant(s)

DEFA Properties Ltd.

Type of Application

Permission

Planning Authority Decision

Refusal

Type of Appeal

First Party

Appellant(s)

DEFA Properties Ltd

Observer(s)

Philip O'Reilly

Date of Site Inspection

13th of October 2017

Inspector

Angela Brereton

1.0 Site Location and Description

- 1.1.1. The property is located in Dublin City Centre and the subject site fronts onto Fade Street (north) and Drury Street (east) and adjoins the Drury Street multi storey car park to the south and number 3 Fade Street to the west. This is a corner site at the junction with Drury Street to the east. South Great George's Street lies to the west. The existing two storey building is characterised by red brick facades, segmental arched window and door openings at grounds and first floor, granite cills, granite capping and slate pitched roofs, and timber sash windows. The site is in use as a restaurant at ground floor level and a bar at first floor level and rooftop terrace with seating area and comprises all one premises known as Fade Street Social.
- 1.1.2. The building which is not a Protected Structure is in the Architectural Conservation Area. There is a mix of building types in the area, with those on the north side of Fade Street being part of the South City Markets and of the Victorian period and protected structures. Immediately adjoining the site to the west is L'Gueuleton Restaurant and Hogan's Bar. Drury Street carpark which is a 6 storey utilitarian type building adjoins to the south. There are more modern mixed use commercial buildings including Brooks Hotel to the east on Drury Street.

2.0 Proposed Development

- 2.1. This is for the demolition of the existing hipped slate roof structure to the existing premises at no. 4-7 Fade Street, and the construction of a proposed additional storey that fronts onto both Fade Street and Drury Street. The additional storey is to provide an extension of the use of the existing building, namely Licensed Restaurant and Multi-Purpose Event Centre together with ancillary bar.
- 2.2. The proposed additional storey is also to provide ancillary spaces including restrooms and storage areas. The total area of the proposed new floor is 319sq.m. Internally some alterations are to be made to the existing building at Ground Floor and First Floor levels to accommodate the additional storey. External alterations are to include modifications to a currently redundant door located at Ground level on Drury Street to reinstate same for the purposes of a designated service access.

- 2.3. The application form provides that the total site area is 424sq.m, the floor area of buildings to be retained within the site is 786sq.m. The total new build proposed is 319sq.m, giving a total floor area of 1,105sq.m. commercial floor area. The proposed plot ratio is 2.61 and the proposed site coverage is 100%.
- 2.4. A Site Layout Plan, Floor Plans, Sections and Elevations showing the existing and proposed development have been submitted. It is noted that the building is currently two storey and it is proposed to add an additional storey. Contiguous Elevations have also been submitted.
- 2.5. A Report on the proposed redevelopment from Resonate Acoustics has been submitted with the application, relative to Environmental Noise Impact Assessment.

3.0 Planning Authority Decision

3.1. Decision

On the 30th of June 2017, Dublin City Council refused permission for the proposed development for the following reasons:

1. *Given the height and scale of the proposed roof extension in relation to the height of the existing building, the proposal would have a significant and detrimental impact to the architectural character of the building, historic streetscape and the South City Retail Quarter ACA. It is considered that this proposal would therefore be contrary to policy CHC5 of the 2016 DCDP and the proper planning and sustainable development.*
2. *It is considered that the proposed restaurant/bar extension at second floor level which can be fully opened up to the outside on the northern and eastern elevation would give rise to an unacceptable level of disturbance and would be detrimental to the residential amenity, environmental quality and the established character of the area. The proposed development would be contrary to the proper planning and sustainable development of the site.*

3.2. **Planning Authority Reports**

3.2.1. Planner's Report

This had regard to the locational context of the site, planning history and policy and to the submissions made. It was noted that the site is located within the South City Retail Quarter ACA and regard was had to Policy CHC5 (relative to P.S and buildings in ACAs) of the DCDP 2016-2022 and to policies relative to entertainment venues. It was noted that the proposal involves the removal of the existing hipped roof and the construction of a contemporary flat roofed extension at 2nd floor level. They had concerns regarding the design and scale of the proposed extension relative to the context of the existing building and the character of the area. They noted that the Conservation Officer recommended refusal on design grounds. Also that the EHO had concerns in relation to the Environmental Noise Impact Statement submitted and impact on residential amenity in the area. The PA also has concerns in relation to the impact on the street and adjoining residential from noise emanating from the proposed rooftop restaurant. They recommended refusal of permission.

3.3. **Other Technical Reports**

3.3.1. Conservation Officer

They noted that the character of the area is set out in the written statement for the ACA and that the subject site is an integral part of the 19th century City Markets context. They considered the scale of the redevelopment to be inappropriate and in particular the extensive removal of the extant roof structure. They recommended refusal and considered that proposed scale and location of intervention is unjustified and would set an undesirable precedent and be detrimental to the architectural character of the site and the overall area.

3.3.2. Environmental Health Officer

They reviewed and had concerns about the lack of clarity in the Environmental Noise Impact Statement submitted. They noted that a number of complaints had been received relative to noise.

3.3.3. Roads & Traffic Planning Division

They have regard to the proposal, planning history and context of the site. They had regard to waste management/refuse collection arrangements. They had no objections and did not consider that the use of the redundant doorway onto Drury Street would have an adverse impact on current arrangements.

3.3.4. Waste Regulation Section

They recommended that a Construction and Demolition Waste Management Plan be submitted prior to the commencement of works. They provided details of the Waste Standards for Commercial/Industrial Developments and recommended a number of conditions.

3.4. **Prescribed Bodies**

3.4.1. Transport Infrastructure Ireland

They noted that the proposed development falls within the area set out in the Section 49 Levy Scheme Luas Cross City (St. Stephen's Green to Broombridge Line) Contribution Scheme. They provided that if the application is not exempt that it should be a condition of the grant to include a Section 49 Contribution Scheme Levy.

3.5. **Third Party Observations**

3.5.1. Submissions have been received from the subsequent Observer and on behalf of Brooks Hotel and these include the following:

- Concern about the detrimental impact of the proposed development on the roofscape and character of the area.
- A flat roof where unique and traditional slated hipped roofs predominate would have a high visibility and be overly dominant.
- Lack of clarity in the drawings submitted in particular relative to the glazed balcony area and noise issues.
- Regard to the previous permission on this site (PL29S.239279 relates) and note breach of Condition no. 2 (relative to prevention of use as a nightclub) and Condition no.3 (relative to limit on opening hours).

4.0 Planning History

4.1.1. The Planner's Report provides a planning history relevant to the subject site. The following are the more recent permissions:

- Reg.Ref.2878/12 – Permission granted subject to conditions by DCC for amendments to the previously permitted development Reg.Ref.2629/11 relating solely to the erection of external signage and external lighting to the Fade Street and Drury Street facades, and a drop arm old style awning to the Fade Street façade.
- Reg.Ref.2629/11 and ABP Ref.PL29S.239279 – Permission granted subject to conditions by DCC and subsequently by the Board for the change of use of existing structure (670 square metres) from office use to a licensed restaurant, including the use of the first floor roof terrace to the rear for outside dining purposes; a multi-purpose event centre together with ancillary bar, kitchen, rest room/toilets and storage areas. The proposed development works included the construction of a new basement level storeroom (59 square metre) together with external alterations to the Drury Street and Fade Street elevations to include the installation of new doors and replacement windows at numbers 4 to 7 Fade Street, Dublin (measuring approximately 410 square metres).

Condition no.2 of the Board's permission restricted the use of the development and Condition no.3 limited the opening hours.

Copies of these decisions are included in the History Appendix to this Report.

5.0 Policy Context

5.1. Dublin City Development Plan 2016-2022

Section 2.3.9 refers to the recognition and support for Conservation, Culture and Heritage as a core determinant of the city's character and includes: *The city's built heritage makes it unique. Key to the approach of this plan is to seek to increase the sustainability of urban planning, new investment, infrastructure improvement and regeneration by taking into account the existing built environment, intangible*

heritage, cultural diversity, socio-economic and environmental values along with community values.

Section 4.5.9 refers to Urban Form and Architecture Policies SC26 and SC27 refer.

Section 6.5.3 refers to Tourism/Visitors. Policy CEE12 seeks to promote tourism facilities, including the provision of hotels.

Chapter 11 refers to Culture and Heritage. Section 11.1.3 sets out the challenges to protect the character of designated ACAs and CAs and to protect the structures of special interest and review the RPS.

Section 11.1.5.4 refers to ACAs and CAs in particular to the special interest or unique historic and architectural character and important contribution of heritage to the city. CHC4 refers to the need to protect the special interest and character of all Dublin's Conservation Areas.

Section 11.1.5.7 has regard to the Demolition of Protected Structures and Buildings in Architectural Conservation Areas – Policy CHC5 refers.

Section 11.1.5.13 refers to Preservation of Zones of Archaeological Interest and Industrial Heritage. Policy CHC9 refers.

Chapter 14 sets out the Land-use Zoning Principles and Objectives, and these are referred to relative to the site (Z5-City Centre) in this Assessment.

Chapter 16 provides the Development Standards and refers to Design, Layout, Mix of Uses and Sustainable Design.

Section 16.10.11 refers to Mixed Use Development and includes: *To create a vibrant city, it is important that development accommodates a mix of uses. In considering proposals for mixed-use developments, the protection of amenity and the reduction in potential conflict between the various uses will be of paramount importance.*

Section 16.28 refers to Off-Licences, Section 16.29 refers to Restaurants.

Section 16.32 refers to Night Clubs/Licensed Premises/Casinos/Private Members Club.

Relevant to consideration of all of the above uses is the impact on residential amenities, on the protected structures and having regard to the number of such facilities in the area.

Section 16.10.20 refers to Development on Archaeological Sites and in Zones of Architectural Interest.

Guidelines are given on relative to Monuments in Dublin City in Appendix 9 and Appendix 24 refers to Protected Structures and Buildings in Conservation Areas.

Appendix 3 refers to the Retail Strategy. Section 3.7 includes Guidance on Scale and Location of Development. This also refers to ACAs and notes the DCC has designated 4no. architectural conservation areas which includes the South City Retail Quarter.

5.2. **Architectural Heritage Protection – Guidelines for Planning Authorities, 2004**

These guidelines are of relevance and were issued by the DoEHLG in 2004/2011 and outline the responsibility of the Planning Authority to protect the special interest of 'Protected Structures' and to preserve the character of conservation areas within their functional area. These guidelines are issued under Section 28 and Section 52 of the Planning and Development Act 2000 (as amended) and are relevant to the preservation of Protected Structures and for the purpose of preserving the character of Architectural Conservation Areas.

The Guidelines state that in relation to conservation areas that: *“the protection of architectural heritage is best achieved by controlling and guiding change on a wider scale than the individual structure, in order to retain the overall architectural or historic character of an area”*.

Chapter 3 refers to Architectural Conservation Areas. Section 3.3 refers to Identifying the Character of the Area and has regard to Architectural Interest and includes: *The volume or massing, plot size, boundary alignments and street-frontage alignment of the built environment can be part of the heritage of an urban area.*

Section 3.4.2 includes: *The contribution of setting to the character of the architectural heritage should not be underestimated.*

Section 3.7 refers to Development Control in ACA's. This includes: *Inappropriate small-scale alterations may gradually make a significant impact on an area and erode its character.*

Section 3.11 refers to Management of ACA's.

Section 18.6 includes having regard to the Introduction of New Elements: *The planning authority should not seek to discourage contemporary and innovative designs, providing these are of sufficiently high quality and do not detract from the character of the historic fabric.*

5.3. South City Retail Quarter Architectural Conservation Plan

- 5.3.1. This is the written statement and mapping that accompanied this ACA prior to its designation in 2007. Regard is had to the Development of the South City Retail Quarter and a description is given of the streets in the area including South Great George's Street/Drury Street and the South City Markets Area. It is noted that the subject site is located within the boundaries of this ACA. Part II refers to Development Management and includes that new developments should have regard to the established scale of the existing built fabric and should be designed to the highest standard in a modern architectural idiom.

6.0 The Appeal

6.1. Grounds of Appeal

- 6.1.1. An appeal has been made on behalf of the First Party, DEFA Properties Ltd, by Hendrik W van der Kamp, Planning Consultant. The appeal submission outlines the merits of the proposed development in planning terms and aims to address the Council's refusal reasons. The following documents are also included with the appeal:

- Details re: Pre-Planning Consultation with Mr Paul Kearns (appendix A)
- Report by Cathal Crimmins Grade 1 Conservation Architect (appendix B)
- Report by Dr.Emmit English, Acoustic Consultant (appendix C)
- Revised drawings illustrating fixed glazing (appendix D)
- Architect's Report with supporting information for the appeal (appendix E)

Regard is had to the locational context of the proposed development, planning history and policy. The grounds of appeal include the following:

- The subject building is not a P.S and no significant changes are proposed to the existing fabric of the building.
- The proposed development is in accordance with policies and objectives in the city centre Z5 land use zoning in the DCDP 2016-2022 and helps to achieve the stated DP objective to facilitate the concept of a 24hour city.
- To clarify they provide that the outdoor terrace seating is existing at first floor level and no additional outdoor seating area is proposed as part of the proposed development. They provide that the Council's interpretation is incorrect in this regard.
- While they note pre-planning advice is without prejudice, they provide that the Council's response was initially favourable (Appendix A). They consider that the planning application and the planner's assessment through an administrative error failed to take account of a pre-planning consultation held.
- They refer to the screening that will be provided by the proposed development of the backdrop formed by the visually obtrusive six/seven storey carpark building (ca.16m in height) to the south of the site. This will serve to improve the visual amenity of the public realm.
- They note that the Grade 1 Conservation Architect's Report in Appendix B concludes that the proposed development is not contrary to Policy CHC5 of the current DP. They consider that the proposal as a contemporary development is in accordance with the Architectural Heritage Guidelines.
- They refer to planning history and provide that an assessment of the existing development including regard to the outdoor seating area was considered in the Inspector's Report and Board decision in Ref. PL29S.239279.
- They have regard to Condition no.2 imposing restrictions on the use and Condition no.3 relative to restrictions on the opening hours. They provide that the applicants would be happy to have the same conditions attached to the current application, incl. the omission of the external speakers.
- Planning permission has been granted for a refurbishment and redevelopment of the nearby located Central Hotel which unlike the subject property is a P.S, and is also within the ACA. They consider that this application where it is

proposed to provide a new fourth floor in the form of a lightweight steel structure sets a precedent for the proposed development.

- They also note that the existing two storey property located between the Central Hotel and the neighbouring five storey building on Dame Court was approved to be developed as a six storey structure as part of the approved development.
- Section 8 has regard to Noise Concerns and note that the EHO did not recommend refusal. A response to the EHO concerns about noise is included in the Acoustic Consultant's Report in Appendix C.
- They provide that in order to mitigate any concerns regarding noise, revised drawings are enclosed with this appeal submission (Appendix D) which show that the external glazing will not be openable. The applicants are happy to accept a condition in this regard.

6.2. Planning Authority Response

There has been no response to the grounds of appeal from Dublin City Council.

6.3. Observations

- 6.3.1. An Observation has been made by Philip O'Reilly of Grosvenor Place, Rathmines which submits that the decision made by the LA should be upheld and is fully justified and valid in all aspects. They provide that this is an architecturally very unique part of Dublin consisting of red bricked Victorian and Edwardian traditional buildings all working to a unique theme and that to permit such development would have a seriously adverse impact on the unique setting and architecture of this area of Dublin.

7.0 Assessment

7.1. Principle of Development and Planning Policy

- 7.1.1. Regard is had to the Zoning Principles in Chapter 14 of the Dublin City Development Plan 2016-2022. It is noted the site is within the City Centre – Zone Z5 (Map E

refers) which seeks: *to consolidate and facilitate the development of the central area, and to identify, reinforce and strengthen and protect its civic design character and dignity*. The primary purpose of this zone is to sustain life within the centre of the city through intensive mixed use development. Commercial, Retail and Office uses are permissible uses within this zoning.

- 7.1.2. There are several policies and objectives in this Plan which promote retail and commercial uses in the city centre. These include as provided in Chapter 6 'City Economy and Enterprise'. The proposed development would be permissible in principle under the Z5 zoning. The principle of the development would be considered to be consistent with Development Plan policies that seek to promote the development of Dublin as a tourism destination including Policy CEE12 which also supports the development of restaurants and cafes and tourist facilities. The Architects Report submitted with the application provides that the proposed development has been informed by the DCDP 2016-2022 planning policies and guidance and is considered to be consistent with the planning, economic, retail and development strategies for the area and the city.
- 7.1.3. The subject two storey building known as 'Fade Street Social' has in recent times been redeveloped as a Licensed Restaurant, including the use of the first floor terrace to the rear for outside dining purposes; a Multi-Purpose Event Centre together with ancillary bar, kitchen, rest room/toilets and storage areas - Reg.Ref.2629/11 and Ref.PL29S.239279 refers and is now in operation as such. However, the current proposal seeks to demolish the existing more traditional hipped roof structure and to construct an additional storey as an extension for restaurant bar/event centre with modifications to external door (currently redundant) for access purposes.
- 7.1.4. The issue in this case is that the proposed development is located in the South Dublin Retail Quarter ACA. While not itself a P.S it is in an area where there are a number of buildings of significant architectural merit some, including the dramatic Victorian buildings on the opposite side of the road which form part of the South City Markets buildings all of which are P.S. There are a number of Conservation Policies that apply in the current DCDP including Policy CHC1 i.e: *To seek the preservation of the built heritage of the city that makes a positive contribution to the character, appearance and quality of local streetscapes and the sustainable development of the*

city. Regard is also had to Chapter 3 of the Architectural Heritage Guidelines which refers to the preservation of and enhancement of development in ACAs. Therefore, the proposed development has to be considered in a sensitive manner, taking into account the impact on the ACA and on the street/roofscape and the character and visual amenities of the area. Also regard is had to the impact of the usage of the proposed development on the amenities including residential amenities in this mixed use area. These issues are considered further in this Assessment below.

7.2. Regard to the Proposed Development

- 7.2.1. The existing two storey building is located in a busy commercial area and is in use as a restaurant & multi-purpose event centre at ground floor level and a restaurant with ancillary bar at first floor level. There is an external courtyard area at first floor level which is surrounded on three sides by the second storey of the building and the seven floor multi-storey car park at the rear. As noted in the History Section above planning permission for the existing use was granted in 2011 (Reg.Ref.2629/11 and subsequently by the Board in Ref. PL29S.239279) and note is had of the conditions and the restrictions imposed in the latter.
- 7.2.2. The Architects Report submitted with the application provides details of the proposed contemporary design of the new additional floor. The proposed development is to provide an external alteration by way of an additional floor level to the existing building by providing a lightweight flat roofed structure on top of the existing building. It is provided that the proposed new structure is designed to be reversible and supported independently of the existing external walls. This is to replace the existing hipped roof structure and provide additional accommodation at second floor level for the existing facility in the form of a Licensed Restaurant and Multi-Purpose Event Centre together with ancillary bar. The total floor area of the new proposed floor is 319sq.m. It is provided that no significant external changes are proposed to the existing fabric of the building. It is noted that there is a growing demand for these type of facilities as part of the 'night life economy' in the area. Also, that as per the application form the proposal along with the existing to be retained would provide for 1,105sq.m of commercial floor space on this site.
- 7.2.3. The First Party provides that the proposed additional floor area will be U-shaped as it wraps around the existing courtyard area that is currently provided at first floor level.

Only minor internal alterations are proposed to the first floor of the building. The outdoor terrace area or courtyard was granted permission in 2011 and is already existing and is located on the first floor of the building. In the proposed development this existing outdoor seating area will become partly enclosed by the proposed additional floor but no new outdoor seating is proposed.

- 7.2.4. As shown on the floor plans it is also proposed to provide some internal alterations which include a new staircore and passenger lift in the south eastern corner of the building. External alterations also include modifications to a currently redundant door located at Ground Floor Level on Drury Street to reinstate same for the purpose of designated service access. This includes access to a proposed internal refuse storage area at ground floor level and to the proposed new staircore and lift. Regard is had to the Eastern Elevation showing these alterations. As noted on site it appears that the existing shuttered shop front type window at ground floor level would be altered. It is considered important that this window on the eastern elevation be retained as it provides an active façade to Drury Lane.

7.3. **Regard to Impact on the Character of the Area**

- 7.3.1. The subject site is located on the eastern corner of Fade Street with frontage to both Fade Street and Drury Street. There is an existing two storey period red brick building on site which is not a Protected Structure. While properties on the northern side of Fade Street are Protected Structures, those on the southern side, which include the subject site while in the ACA are not P.S. The utilitarian building which forms a backdrop to the rear (south) comprises the 6/7 storey Drury Street carpark and is not included in the ACA. DCC specifically identified the multi-storey car park as an issue in its assessment of Drury Street in its 2014 Grafton Street Quarter Public Realm Plan i.e. *...Some closed poorly animated sections of frontage including the multi-storey car park.* The First Party provides that the proposed development will provide significant screening of this visually obtrusive carpark building and thus visually improve the public realm.
- 7.3.2. The application site is included in the South City Retail Quarter ACA which was designated in 2007. The ACA is dominated by the South City markets and it is noted that in recent years that this has grown in importance as a commercial and entertainment area. In particular, this proposal will be in accordance with current

trends and the growing number of restaurants and bars and 'night life culture' in the area.

- 7.3.3. There is concern that the proposed development would be overly dominant and detrimental to the character of the area. It is noted that the entire elevation to both sides of Fade Street is presently Victorian and Edwardian red brick and now it is proposed to break this up with this type of contemporary structure that will have a high visual impact and will also dominate the corner with Drury Street. Regard is had to the current DCDP. Policy CHC4 relates to enhancement opportunities and development restrictions. Enhancement opportunities include: *Contemporary architecture of exceptional design quality, which is in harmony with the Conservation Area*. This policy also includes that development will not: *Involve the loss of traditional, historic or important building forms, features, and detailing including roof-scapes, shop-fronts, doors, windows and other decorative detail*.
- 7.3.4. Section 3.6.5 of the Architectural Heritage Guidelines is of note relevant to ACA's and provides: *Consideration should be given in the description not only to the façades and frontages of buildings facing the major thoroughfares, but also to the roofscape, side streets and lanes, and the rear appearance of buildings, including characteristics of their plots such as mews buildings, which may also contribute to the character of the area*.
- 7.3.5. An Architects Report submitted with the application provides details of the site and surroundings. This includes regard to historic background and mapping and contemporary photographs showing the existing context. Regard is had to planning policy and a context analysis is provided showing existing and proposed views along Fade and Drury Streets. It is provided that the proposal aims of produce a set piece frontage to the South City Markets building at a prominent intersection in the city at Fade Street and Drury Street announcing at Dublin's innovative Restaurant/Bar /Social Quarter. Also that the proposed new social space will be characterised by views of the 'Victorian Gothic Extravaganza' of the South City Market building to the North and the Landscaped Internal Courtyards to the South. In this context it is provided that the light and transparent additional storey will be active at both night and daytime, adding as a high quality building in this creative quarter. The Architects Report includes details of Shadow Studies for the existing and proposed development relative to the March and September Equinoxes and June and

December Solstices. This shows that relative to overshadowing that major differences will not ensue. Regard is also had to the issue of Noise Impact below.

7.4. Regard to impact on the building and the ACA

- 7.4.1. Appendix B of the First Party grounds of appeal includes a Grade 1 Conservation Architect's Report. This considers that no.4-7 lacks the quality of the South City Markets and surrounding buildings and that the existing building has been much altered and extended with new roof finishes and notes external alterations to walls and window openings. It also notes that the relationship to the height of the existing buildings, including the carpark to the south, the South City Markets opposite and the buildings adjoining on Fade Street and Drury Street, and the buildings opposite on Drury Street which are of some importance. This notes that there is a precedent for this addition of this type of structure to the existing building that is appropriately designed as a contemporary foil to the plain brick building below and is not contrary to the Policy CHC5 of the current DCDP.
- 7.4.2. Policy CHC5 resists the substantial or total loss and seeks to protect Protected Structures and preserve the character and the setting of Architectural Conservation Areas. It is provided that in this case the existing building which is not a P.S is being retained and augmented by the addition of the second floor. However, this will involve the removal of the existing traditional hipped roof and its replacement with a contemporary structure. While the existing roof in view of its relatively low pitch is not that visible in the surrounding area, other than looking southwards from Drury Street and from the higher vantage point of the roof of the multi-storey carpark to the south, the issue is whether the proposed new development would add to and enhance the character of the ACA.
- 7.4.3. Note is had to Appendix E and to the Architects' report which includes supporting information relative to the appeal and which has regard to Height and Scale concerns and to the proposed additional storey in the context of the ACA. Section 1.1.2 shows the Fade Street Elevation within context showing the corresponding rhythm of the proposed facade to the existing buildings within the street and Section 1.1.3, notes the façade treatment relative to scale. Also Section 2.0 shows the revisions to the façade design in relation to mitigation measures for noise levels.

- 7.4.4. The overall roof height will be increased to c.11m. This will also be seen in the context of the backdrop of the flat roof utilitarian type carpark building at the rear which is c.16m in height and the adjoining more traditional 3/4 storey buildings to the west with a ridge height of c.15m. Regard is had to the existing roofscape and in particular to the eastern elevation to Drury Street. It is noted that the hipped roof element is on that part of the building facing Fade Street and the existing elevation onto Drury Street where it joins the contemporary carpark building is at a lower level. As shown on the plans submitted while the proposed new façade will be the same overall height, this height differential will be dealt with by providing what will appear as a higher glazed element (i.e. leading to a variation of c.3.37m – 4.38m in height above the existing parapet) from the Drury Street elevation.
- 7.4.5. It is noted that there is no set back proposed of the glazed element of the new contemporary structure, and it appears to fit in with the back drop of the carpark building. It is provided that this proposal does not seek to alter any of the existing external features that currently characterise the building. However, it will remove the existing hipped roof structure and there is concern that visually the overall scale, bulk, design and height of the proposed contemporary structure will appear top heavy on this traditional red brick building and will conflict with and appear overly dominant and not add to or enhance the character of the ACA.

7.5. **Regard to issues of Precedent**

- 7.5.1. The First Party Appeal refers to the issue of precedent relative to other such developments granted by DCC. It is also noted that Appendix E of the First Party Appeal provides in Section 1.2 Precedent Images of Similar Approaches relative to Height and Scale Concerns for such contemporary additions.
- 7.5.2. They refer in Appendix B to permission granted (Reg.Ref. A12151/17 refers) for alterations and extension to the Central Hotel, 1-5 Exchequer Street which is a P.S in an ACA and note the Conservation Officer's comments relative to that particular case. They note that the proposed development at the Central Hotel deals with the removal of fabric, extensive alterations and extensions all to a P.S a hotel of architectural quality. Also that the proposed development in Fade Street does not remove original fabric and deals with little alteration but provides a significant

extension all to a non-protected structure of original partly industrial use and of questionable architectural quality.

- 7.5.3. They also refer to Reg.Ref. DSDZ4079/16 relative to nos. 81 and 82 Castleforbes Road, both P.S of some quality with permission for two extra floors of contemporary design. It is noted that neither of these cases were subject to appeal to the Board. In planning terms all cases are dealt with on their merits and it is considered that these applications raise separate issues and cannot be considered in the same context as the existing application.
- 7.5.4. It is noted that the Council's Conservation Officer is concerned that the proposed development does not conform to the major roofscape of the principle structure and that the overall treatment and construction of the building is regarded as part of the overall context and setting of the South City Markets. They provide that the proposed location and scale of intervention is inappropriate, un-justified and contrary to the Architectural Heritage Protection Guidelines. Section 3.10.2 includes: *When it is proposed to demolish an undistinguished building in an ACA, the proposed replacement should not be of lesser quality or interest than the existing one and should not adversely affect the character of the area.* There is concern that the extensive removal of the extant roof structure is problematic due to the height and scale of the proposed roof extension relative to the extant height of the building and would represent a significant and detrimental impact to the architectural character of the building, historic streetscape and ACA. Also that the removal of the roof structure in this manner would set an undesirable planning precedent in the area.
- 7.5.5. In view of the above it is considered that it must be asked whether the proposed development should be seen to emulate the multi-storey carpark building to the rear which is not within the ACA or to enhance the character of the area relative to the grouping and context of the more architecturally significant buildings in proximity that form part of the ACA. As the proposed building forms the south eastern edge of the ACA and is a prominent corner site it is not considered that the design, bulk, scale and height of the proposed new storey at second floor level would add to or enhance the character of the area. While there maybe scope for a well-designed second storey that takes greater cognisance of the existing building and setting within the ACA, it is not considered that the proposed development would be of sufficient

architectural quality to comply with Policies CHC4 of CHC5 of the DCDP 2016-2022 or Sections 3.6.5 or 3.10.2 of the Architectural Heritage Protection Guidelines.

7.6. Noise issues

- 7.6.1. It is provided in the Architect's Report that in recognition of both the growing residential uses in the city centre and also in consideration of the noise sensitive hotel use at Brooks Hotel, Drury Street that noise reduction measures have already been incorporated into the existing development. To ensure that the current proposal would not give rise to an increase in ambient noise levels to noise sensitive locations within its environment a Noise Impact Assessment Report has been prepared by Acoustic Consultants: Reasonate Acoustics. It is noted that the existing levels of noise are typical of an urban environment. Based on the proposed design, they developed a detailed acoustic model to predict the noise impact under a worst case scenario (maximum occupancy). This also relates to the proposed extension. It was concluded that the proposed development would not give rise to a discernible increase in the existing ambient noise levels.
- 7.6.2. The Environmental Health Officer's concerns about the Noise Impact Statement are of note. These include relevant to the location of the measurement of background noise levels, lack of clarity about the location of the proposed roof terrace and reference to complaints regarding noise affecting neighbouring residential properties in the area.
- 7.6.3. Section 8 of the First Party Appeal refers to Noise and notes that the Council's EHO had concerns about the noise impact of the proposed development. They provide a response in the further Acoustics Report in Appendix C. This Report provides that there would be no perceivable difference in sound levels between the different heights as referenced.
- 7.6.4. They provide that the roof terrace is existing and the proposed development will increase the height and provide additional enclosure thereby reducing rather than increasing any noise that will emanate from the existing first floor roof terrace compared to the current situation. Also that there will be no perceivable difference in sound levels between the different heights and include Mitigation measures in

Appendix D. They are happy to accept a condition that provides that the external glazing will be fixed and will not be openable.

7.6.5. They provide that in response to the refusal decision the applicants have decided to change the design of the external glazing from openable to fixed glazing. They refer to the revised drawings and also to the engineer's report which they provide confirms that an additional storey with fixed perimeter glazing will result in a reduction in the noise emanating from the existing open courtyard scenario. Table 2 of their Report has regard to Predicted noise levels of the proposed development as originally submitted relative to the noise sensitive locations of Brooks Hotel and Fade St. Apartments and Table 3 shows the reduced noise levels of Revision A (fixed glazing on the upper level) at the nearest noise sensitive locations.

7.6.6. They note that it is not proposed to provide external speakers and that the applicant would accept a condition in this regard. Furthermore, the existing courtyard has planning permission, Relative to complaints about noise emanating from the use of this open area, they provide that the proposed development will mitigate these problems because the external courtyard will be surrounded on three sides where currently this is not the case. It is recommended that if the Board decide to permit that the modifications shown in the plans in Revision A be conditioned. Also that opening hours be conditioned to comply with Condition 3 and that other noise related conditions include the omission of speakers and be in accordance with PL29S.239279.

7.7. Access issues

7.7.1. A new waste management storage unit is proposed under a new stair core to have direct access at ground floor level from a current redundant doorway onto Drury Street, adjacent to the multi-storey carpark. Therefore, the service access to the Drury Street side of the building will be enhanced. It is noted that the Council's Roads and Transportation Section do not object to this aspect of the proposal.

7.7.2. There is no no-street car parking on the narrow Fade Street, however there is bicycle parking and the area is well supplied by two multi storey carparks on Drury Street. There is also a variety of public transport links available in the area.

7.8. Drainage

- 7.8.1. Details of Drainage are provided in the Architects Report. Further to the Engineers review of the estimated increase in demands, it is anticipated that minimal intervention will be necessary to the existing Foul and Service water drainage layout and specification. Plans shows the Foul and Surface Water Layout are included.

7.9. Appropriate Assessment

- 7.9.1. In view of the nature and scale of the proposed development including the provision of a second floor to an existing commercial building within the serviced urban area, it is considered that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on any European sites, and that an Appropriate Assessment is not therefore required.

8.0 Recommendation

- 8.1. It is recommended that permission be refused for the reasons and considerations below.

9.0 Reasons and Considerations

1. The site is in a prominent corner location at the junction of Fade Street and Drury Street, and within the South Dublin Retail Quarter Architectural Conservation Area as set out in the current Dublin City Development Plan. It is considered that the proposed development, by reason of the removal of the traditional hipped roof form and replacement with a glazed additional storey, would detract from the character of the architectural conservation area and seriously injure the visual amenity of the area. The proposed design and increase in height, scale and bulk of the building would also adversely affect the character of the existing building and the streetscape. The proposed development would, therefore, conflict with the policies, including CHC4 and CHC5 as set out in the Development Plan, to protect and enhance such areas including architectural conservation areas and Sections 3.6.5 and 3.10.2 of the Architectural Heritage Protection Guidelines 2004/2011 which are issued

under Section 28 of the Planning and Development Act 2000 (as amended). It would therefore set an undesirable precedent and be contrary to the proper planning and sustainable development of the area.

Angela Brereton
Planning Inspector

19th of October 2017