



An
Bord
Pleanála

Inspector's Report PL29S.249415

Development Demolition of all buildings / structures on site and erection of an 8-storey over-basement, 393no.-bedroom hotel, an 8-storey over-basement, 136no. suite/studio aparthotel, an 8-storey over-basement, 66no. suite/studio aparthotel over ground floor restaurant (482-sq.m) and an 8-storey, 21no. unit apartment block over ground floor retail unit, plus ancillary and associated developments.

Location Nos.44-53 Townsend Street, 33-39 Moss Street, 31-33 Gloucester Street and including Bracken's Lane, Dublin 2.

Planning Authority	Dublin City
Planning Authority Reg. Ref.	2711/17.
Applicant(s)	Brigante Investments Ltd
Type of Application	Permission
Planning Authority Decision	GRANT with conditions
Type of Appeal	Third Party
Appellant(s)	City Quay National School
Observer(s)	None

Date of Site Inspection

18/01/18

Inspector

John Desmond

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1.0 Site Location and Description

- 1.1. The application site is located in Dublin's inner city, east of the elevated Belfast to Rosslare railway line, one block south of the Liffey at City Quay, immediately east of the Ulsterbank complex located opposite the Customs House.
- 1.2. The site, which has a stated area of 4,344-sq.m (0.4334ha), accounts for a little over half a city block bounded to the north by Gloucester Street South, to the west by Moss Street, to the south by Townsend Street and to the east by George's Court which occupies the eastern side of the city block, with Prince's Street completing the eastern perimeter of same. The land here is almost flat, only very slightly elevated above the city's quays to the north.
- 1.3. The site has been formed through the amalgamation a number of individual curtilages (or former curtilages), including vacant sites fronting onto Gloucester Street South and Moss street; underutilised / low-value land uses - auto-repair workshops on Townsend Street (now closed); vacant buildings which appear to have become derelict (3no. 4-storey social housing tenement terraced buildings at the corner of Moss Street and Gloucester Street South; and, on Townsend Street, a commercial building (the façade style is similar to many cinemas of the 1930's-1950's), bracketed by 2no. a 3-storey terraced buildings (commercial ground and residential on upper floors), all of which are vacant and falling into disrepair; and a 3-storey building on the corner of Townsend and Moss Streets accommodating a public house, 'Ned's' / 'The Townsend', now closed, at ground floor but with residential above. The site also includes a cul-de-sac lane (Bracken Lane) off Moss Street, which is in charge of Dublin City Council, but which was secured at the time of inspection by steel gates. All the buildings on site appear to now be vacant.
- 1.4. Gloucester Street South reads as a backstreet, more than somewhat down in the mouth, being relatively narrow (c.11m), with footpaths of inadequate width (1.35m) adjacent the site, on-street car parking and recent and ongoing development providing poor interaction at ground floor level. Townsend and Moss Streets read as relatively higher order streets, being wider, with wider footpaths and with more restrictions on on-street parking. But they, too, have an air of backstreet and decay about them, notwithstanding some significant redevelopment along these thoroughfares in recent years.

2.0 Proposed Development

2.1. The principle elements of the proposed development comprise the demolition of all buildings / structures on site (4,065-sq.m GFA) and the erection of a mixed-used residential and commercial development of 21,526-sq.m GFA, the details of which may be summarised as follows:

- 8-storey over part-basement, 393no.-bedroom hotel (10,688-sq.m GFA, plus 157-sq.m GFA basement plant level);
- 8-storey over part-basement, 136no. suite/studio aparthotel (5,412-sq.m GFA, plus 63-sq.m GFA basement plant level);
- 8-storey over part-basement, 66no. suite/studio aparthotel (2,875-sq.m GFA) over ground floor restaurant (482-sq.m GFA) and basement plant level (136-sq.m GFA);
- 8-storey, 21no. unit apartment block (2,068-sq.m GFA; 14no. 1bed and 7no. 2-bed units) over ground floor retail unit (110-sq.m GFA), with plantroom and screened plant at roof level;

Plus ancillary and associated developments.

2.1.1. Supporting documentation:

- Cover letter Tom Phillips & Associates
- Letter from Dublin City Council Housing Department confirming agreement with applicant to dispose of Council land at Gloucester Street South / Moss Street in exchange for 20 turnkey units and 1no. unit at market value, all for the purpose of social housing. Part V will not apply to these units.
- Design Report by MCA Architects
- Landscape Design Report by Studio Aula Landscape Architects
- Archaeological Assessment Report by IAC Ltd
- Conservation Architects Report by Molloy & Associates Architects
- Infrastructure Report (Civil Engineering) by Barrett Mahoney Consulting Engineers

- Sustainability Report by Axis Consulting Engineers
- Photomontages by 3D Design Bureau
- Shadow Assessment by Integrated Environmental Solutions Ltd
- Delivery Services Management Plan by Barrett Mahony Consulting Engineers
- Appropriate Assessment Screening Report by Openfield Ecological Services

2.2. Further information (25/08/17) –

The main alterations to the proposed development comprise:

- Changes in proposed external material finishes;
- The relocation of the proposed layby on Moss Street to achieve 5m separation distance from Bracken Lane.

2.2.1. Supporting documentation:

- Cover letter Tom Phillips & Associates
- Molloy & Associates Architects addressing conservation concerns
- Barret Mahony Consulting Engineers cover letter addressing traffic, noise and CMP; Construction Methodology Report.

3.0 Planning Authority Decision

3.1. Decision

GRANT permission subject to 26no. conditions. Conditions of particular note may be summarised as follows:

No.7 – Limits the occupation period of aparthotel units to short-term letting not exceeding two months, within the definition set out in appendix 16 of the Dublin CDP 2016-2022, to be managed by 24-hour reception and security facilities, and prohibits their use as independent and separate self-contained permanent residential units.

No.8 – Prohibits the use of the aparthotel units as student accommodation. Prohibits the change of use of the aparthotel units from commercial short-term accommodation to residential without planning permission.

No.11 – Requires, inter alia, approval for the effective control of fumes and odours from restaurant and hotel.

No.15 – Requires, inter alia, deliveries to be managed as per a servicing strategy to be agreed prior to occupation; a minimum 2m wide footpath to be provided along Moss Street; Gloucester Street South entrance to be limited to egress only; specifies some detail requirements of cycling facilities; details of works to public road and of areas to be taken-in-charge to be agreed in writing with Roads Maintenance Division.

No.18 – Requires agreement of details of public lighting.

Nos.19-22 – Concerns details of detailing with waste during construction and within the operation of the development.

No.25 – Standard Part V condition regarding social and affordable housing provision.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The main points of the **first report (09/06/17)** of the Planning Officer may be summarised as follows:

- Considered all the proposed uses, all of which, except aparthotel, are permitted in principle in zone Z5, to be acceptable, and considered aparthotel use (short term and professionally managed aimed primary at tourist and business market) to be consistent with the said city centre zoning.
- Regarding density, site coverage (61%) and plot ratio (4.96), notes that plot ratio exceeds the 3.0 level for Z5, but that neither the SRDUA (2009), nor the CDP, set prescriptive or upper density limits but promote development of underutilised brownfield sites in the metropolitan area.
- Considered that, given the historic and prominent location of the site, the development should be of exceptional architectural quality.
- The proposed height, 29.05m, exceeds the 28m limit under the CDP but that up to 32m (8-storeys) is permissible under George's Quay LAP and the Planner considered the height acceptable, notwithstanding some

reservations, given the significant increase in site coverage, and suggests that it punctuates the corner location and engages and animates the adjacent public realm through design and uses.

- Raised concern about '*glum looking materials*', not '*in sync with the established pattern of materials in the area*'.
- Welcomed the increased pedestrian and vehicular permeability through the site and considered the landscaped central courtyard a focal point for pedestrians which, aided by a mix of ground floor uses, actively engages the public realm.
- The report raised concern about the potential impact, of the proposed restaurant and raised terrace, on the proposed social housing element, but noted that the courtyard and raised terrace to the rear of the hotel are set back from the residential element and are unlikely to result in overlooking or noise issues.
- In the context of the underutilised and part-vacant nature of the site, the proposal to provide 66.6% 1-beds and 33.3% 2-beds as social housing for DCC, contrary to CDP standards (s.16.10.1), was considered acceptable.
- Apartment floor spaces, private open spaces and dual-aspect units are compliant with CDP standards, but considered more information to be needed concerning delineation of communal space to determine compliance.
- The level of overshadowing was deemed acceptable as it primarily affects non-residential property. Overlooking was not considered of significant potential.
- The potential change of use to residential from, and the nature of the aparthotel units will be limited by condition as per the CDP requirements, and the proposed hotel use was viewed positively.
- Considered the applicant should be given the opportunity to address the concerns of the Conservation Officer but noted the buildings on site were not protected structures and in extremely poor condition.
- Regarding road design and traffic issues the report transcribes the report of the Roads Design Department in its entirety without comment.

- The report notes the conclusion of the applicant's AA Screening Report and concludes that AA is not therefore required.

The report recommended that further information be sought concerning open space arrangements, external material finishes, impact on context of protected structures and justification of demolition of existing structures, and on roads issues concerning the proposed entrance to Gloucester Street South, the layby proposed on Moss Street, a delivery strategy for the site, and a CMP. This is consistent with the decision of the Planning Authority to seek further information and the detail of same.

The **second report (20/09/17)** of the Planning Officer considered the applicant's response to the further information request to adequately address the concerns raised and recommended that permission be granted subject to 25no. conditions (excluding condition no.23 pertaining to drainage, which is crossed out). This is consistent with the decision and conditions attached by the Planning Authority (an additional condition, no.23 pertaining to a security bond for completion, was attached by the Planning Authority).

3.2.2. Other Technical Reports

Conservation Officer (02/06/17) – Recommended permission be refused for the reason that demolition of the existing urban block is contrary to best conservation practice and to the objectives regarding heritage protection and sustainability.

Roads & Traffic Planning (08/06/17) – Bracken Lane is in charge of DCC.

Clarification is needed concerning: measures to be implemented to maintain egress only to proposed access onto Gloucester Street South; impact on pay and display on Gloucester Street; the provision of no parking spaces as part of the development is accepted within the City centre location in proximity to public transport; the proposed provision of 87no. bicycle spaces accords with CDP standards; a servicing strategy for the entire site, rather than only for the aparthotel; works proposed outside the application site boundary including the nature of use of the proposed layby and its location within 5m (too close) of the entrance to Bracken Lane; the areas to be taken in charge by the Council (footpaths overhung by development will not be taken in charge; minimum 2m wide footpaths along Moss Street which can be taken in charge); need for a CMP.

Recommended that further information be sought on five points relating to impact of proposed entrance on existing features on Gloucester Street South; potential conflict with vehicles and pedestrians associated with City Quay School located opposite the proposed entrance to Gloucester Street South; the rationale for proposed Moss Street layby, its intended use, the impact on existing features and relocation of same 5m from Bracken Lane entrance; measures to ensure proposed Gloucester Street South entrance is used for egress only; a delivery strategy for the entire development; and a CMP.

Roads Traffic Planning (13/09/17) – The further information response concerning roads issues was considered acceptable. No objection subject to 10no. conditions, including limiting

Drainage Division (06/06/17 & 04/09/17) – No objection subject to standard conditions (for clarity, later report repeats first, indicating no change, but first report is not on file).

3.3. **Prescribed Bodies**

TII (17/05/17) – No objection. Red Line Docklands Extension Section 49 Scheme applies.

3.4. **Third Party Observations**

Three letters of objection were received to the application, from Mr Michael Mac (11/05/17) Donnchadha of Convent Avenue, Fairview, D3, from John Delvin of Erne Terrace, D2 and from City Quay National School (18/05/17), Gloucester Street South. The main issues raised in the observations, other than those repeated in the appeal and addressed under grounds of appeal, may be summarised as follows:

- Impact on architectural heritage. No justification for demolition of Victorian block at corner of site. Loss of fine, elegant, viable and historic building and erosion of Dublin's uniqueness, including loss of civic and social heritage (public house and social housing from c.1917). Huge destruction of the original Georgian era buildings in this area. What remains should be preserved and incorporated with new development, particularly in the context of tourism as the main source of revenue for the city.

- Poor quality design – recessed windows and extent of glazing is not of aesthetic interest.
- Inadequate provision of amenities for end users, including hotel staff - covered bicycle parking; levels necessary to easily enter the facility and park.
- Need for higher quality apartments including basement storage.

4.0 Planning History

4.1. On site:

Ref.no.VV0012 / PA ref.no.VS0129 (northeast Bracken Lane) – Appeal against Planning Authority Notice of Entry on Vacant Sites Register. No decision to date.

PL29S.233751 / reg.ref.2491/09 (south of Bracken Lane only): Permission **REFUSED** on appeal (10/09/09), overturning decision of the Planning Authority, for demolition of all structures on site and the erection of commercial development (offices, public house, café, car service and gym) of 14,839-sq.m GFA and up to 8-storeys over 1 basement level. The reason for refusal related to overhanding of public pavement, building design, bulk, footprint and elevational treatment of insufficient architectural quality on a prominent site would be contrary to the urban design strategy of the CDP and the objective of the AAP which seeks to regenerate the area with an attractive, safe, pedestrian-friendly environment and enhanced public realm.

Reg.ref.3622/08 (northeast of Bracken Lane only): Permission **GRANTED** (19/01/09) by the Planning Authority for the construction of an eight storey plus roof plant over basement mixed use building (total height 31.85metres/ nine storey equivalent) comprising 1no. retail unit at ground floor level and office at ground to sixth and 3no. 2-bedroom apartments at seventh floor level, over basement level car parking.

PL29S.219154 / reg.ref.33270/06 (northeast of Bracken Lane): Permission **GRANTED** by the Planning Authority (15/01/07) for demolition of existing warehouse buildings and construction of 6-storey over-basement mixed-use development comprising retail unit at ground floor level and offices at ground to fourth floor; 3 no 2 bed apartments and terraces at fifth floor, basement car parking for 9 no. cars and

27 No. bicycles and associated plant, refuse storage etc. Access to basement by car lift from Brackens Lane.

PL29S.215958 / reg.ref.3399/05 (southeast of Bracken Lane, but excluding the existing public house structure): Permission **GRANTED** (11/07/06) by the Board, upholding the decision of the Planning Authority, for demolition of existing structures at 36-39 Moss Street and 46-48 Townsend street and Brackens Lane and construction of a 6-storey over basement building of 5392-sq.m GFA accommodating 2no. retail units (615-sq.m), offices (3,507-sq.m), 11no. apartments and basement parking (21no. car space and 50no. cycle spaces). First floor level was omitted by condition (no.2).

4.2. Elsewhere within the vicinity:

PL29S.248941 / Reg.ref.2856/17 (to NW at Tara Street, George's Quay and Poolbeg Street): Current **UNDECIDED** appeal to the Board against the decision of the Planning Authority (29/06/17) to refuse permission for the demolition of buildings, construction of 22 storey office and hotel, rooftop restaurant with 110 bedrooms, upgrade of Tara Street Station with 2no. triple-height structures and associated site works.

PL29S.247352 / reg.ref.2719/16 (to W at Townsend Street, Spring Garden Lane and Cards Lane): Permission **REFUSED** (15/03/17) by the Board, overturning the decision of the Planning Authority, for the demolition of existing 5-storey building and replace with 7-storey over-basement office building and external roof plant area. The single reason for refusal related to serious injury on visual amenities and value of property in the vicinity by reason of design, scale, absence of active street frontage and inadequate response to visual pattern and rectilinear nature of nearby development.

PL29S.245492 / reg.ref.2407/15 (to NE at Gloucester Street South, Prince's Street and City Quay): Permission **GRANTED** (16/03/16) by the Board, upholding the decision of the Planning Authority, for the construction of a mixed-use development of 5-9-storeys in height (5-storey frontage to Gloucester Street South, rising to 8-storeys setback c.5.5m on average).

5.0 Policy Context

5.1. Development Plan

Dublin City Development Plan 2016-2022

Land use zoning objective Z5 City Centre *'to consolidate and facilitate the development of the central area and to identify, reinforce, strengthen and protect its civic design character and dignity'*.

Zone of Archaeological Interest

Chapter 2 Vision and Core Strategy – s.2.2 Core

Chapter 4 Shape and Structure of the City – SC13 (concerning promotion of sustainable densities); S.4.5.4.1 Approach to Taller Buildings; Policy SC16 (concerning building heights); Policy SC19 (concerning safe streets and encouraging walking); Policy SC24 (concerning pedestrian wayfinding system); Policy SC29 (concerning promotion of development of vacant and brownfield lands).

Chapter 5 Quality Housing – Policy CHC3 (concerning protection of exception late 20th C buildings); QH7 (concerning promotion of sustainable densities).

Chapter 11 Built Heritage and Culture – Policy CHC1 (concerning preservation of built heritage); CH15 (concerning preservation of historic elements of public realm, including historic kerbing and sets). The site is within the historic core and the Georgian core of the city as defined in Fig.17 Dublin City: Historic Core.

Chapter 16 Development Standards: Design, Layout, Mix of Uses and Sustainable Design - s.16.2.1 Design Principles; s.16.2.1.2 Sustainable Design; s.16.3.4 concerning open space; s.16.4 Density Standards; s.16.7.2 Height Limits and Areas for Low-Rise, Mid-Rise and Taller Development; s.16.10 Standards for Residential Accommodation; s.16.10.17 Retention and Re-Use of Older Buildings of Significance which are not Protected

Appendix 5 Road Standards for Various Classes of Development

Appendix 7 Stone Setts to be Retained, Restored or Introduced

Appendix 8 Paved Area and Streets with Granite Kerbing

Appendix 16 Guidance on Aparthotels

5.1.1. Local Area Plan

George's Quay Local Area Plan 2012

S.4.1 Land Use Strategy - promotes mixed use development, with residential more prominent to eastern end; land use objective (2) requires minimum 20% secondary uses.

S.4.3 Movement and access strategy – Moss Street and Townsend Street identified as priority pedestrian route; Gloucester Street identified as part of future route between Lombard Street and Tara Street.

S.4.4 Urban Form, Design & Public Realm - (2) A strategy for appropriate scale and height.

4.5 Housing – Policies 1-4, 9 promoting new residential development at sustainable densities, in mixed use development, with high quality residential environments, with adequate provision for long-term family living; objective 1 to promote renewal and refurbishment of existing housing schemes while protecting the built heritage of social housing.

S.4.6 Built heritage – Objective 1 promoting the restoration and regeneration of historic buildings

S.5.2 City Quay Site – sets out a framework for development of site to north of application site.

5.2. Reference documents

Sustainable Urban Housing: Design Standards for New Apartments (DECLG, 2015).

Sustainable Residential Development in Urban Areas (Cities, Towns & Villages) (DEHLG, 2009).

5.3. Natural Heritage Designations

South Dublin Bay and River Tolka Estuary SPA Site 004024 c.2km at the nearest distance (to NE), but 4.2km by source-receptor pathway.

North Bull Island SPA Site 004006 c.4.9km at nearest distance (to E-NE), but c.5.8km by source-receptor pathway.

North Dublin Bay SAC Site 000206 c.4.9km at nearest distance (to E-NE), but c.5.8km by source-receptor pathway.

South Dublin Bay SAC Site 000210 c.2.8km at the nearest distance (to SE), but c.4.8km by source-receptor pathway.

6.0 The Appeal

6.1. Grounds of Appeal

The grounds of the third-party appeal by the Board of Management of City Quay National School may be summarised as follows:

General traffic issue

- Traffic concerns relating to location of new vehicular access onto Gloucester Street South almost directly opposite school entrance.
- No consideration by the applicant has been given to the impacts of traffic arising will have on pedestrian traffic / children attending the school: no commentary is provided in the applicant's Delivery Services Management Plan concerning integration with school pedestrian traffic; no reference to relevant traffic impacts in the Traffic Engineering section of the Civil Engineering Infrastructure Report forming part of the application.
- The new vehicular entrance junction should be omitted to address the endangering of life unnecessary risk to school children, staff and parents where 95% of the traffic arising is pedestrian.
- Previous applications reg.ref.3270/06 and reg.ref.3622/08 included no vehicular access to Gloucester Street South and application reg.ref.5756/05 was refused permission due to impact on the school, but it also proposed no traffic to the said street.
- The Services Management Plan (SMP) submitted as further information identified 6.4 vehicles per day passing through the site between 6am and 8am, directly opposite the school, including 3-5no. 3-tonne vans, 1no. flatbed

truck and 2no.18-tonne ridged trucks, a peak of 9no. on Wednesdays, but with 15no. other vehicles outside these hours.

- There was no assessment of the details of the SMP submitted as FI and the Planning Report recommended that a condition be attached requiring agreement in this regard prior to first occupation of the development, and condition no.15(b) of the decision refers.
- The applicants do not fully appreciate the numbers of children and pedestrians who congregate on Gloucester Street South (photos of what is asserted to be the typical situation at collection time are contained in the appeal and show parents and children pedestrians waiting on the carriageway as well as on the public pavements and cars parked within the no parking zone and on the pavement adjacent the application site).
- In the event of a decision to grant permission a condition should be attached restricting the use of the proposed entrance to Gloucester Street South to outside 8.30am and 4.30pm.

Construction Traffic

- Objects to construction traffic to / from Gloucester Street South for the same reasons, but also due to noise.
- In its FI response the applicant stated it had no proposal for vehicular construction traffic to access the site from Gloucester Street, with the main access being at the existing Bracken Lane / Moss Street junction (drawings no.16306-C1025 of the FI Construction Methodology Report).
- The attaching of condition no.15(a), allowing the issue of construction traffic management to be agreed with the Planning Authority, excludes the appellant from any right of engagement on the issue.
- In the event of a decision to grant permission a condition should be attached prohibiting the use Gloucester Street South for construction traffic or any other traffic.

Construction noise

- Detailed noise control measures were presented in the CMP as FI by the applicant. The effect of the condition attached to the permission allows these details to be agreed to the exclusion of the applicant.
- In the event of a decision to grant permission a condition should be attached imposing appropriate limits on noise emissions measured at the school during its opening hours and appropriate monitoring to ensure compliance with same.

Overlooking school

- A matter of the most serious concern for parents and for the school's Board of Management from a Child Protection perspective.
- Overlooking of playground.
- Overlooking of 3-storey school classroom accommodation.
- Overlooking from aparthotel with short-term guests and include potential for interaction with school children.
- In the event of a decision to grant permission a condition should be attached requiring opaque glazing or a type of brise-soleil to restricting directional views into and from bedrooms of the aparthotel and the elimination of balconies.

Overshadowing

- Material adverse effect on the school as evidenced by shadow analysis submitted by applicant as FI, but which is played down in the report.
- The report is factually incorrect in its assertion that it is the school offices that will be affected – 7no. classrooms [note, I count 6no.] will be affected on ground, first and 2nd floor levels.
- It is unacceptable for the school for the shadow impact to result in necessity to use artificial lighting in its south-facing rooms, which were designed to take advantage of natural light. The school does not have the resources or facilities to compensate for this loss of light.

- Previous application, reg.ref.5756/05, was refused for reason of overbearing and negative impact on the amenities of the school.
- The school is a DEIS band 1 school and its amenities should be protected to ensure that it can fulfil its role.
- The Planning Authority did not give adequate consideration to the concerns of the school in this regard.

6.2. Applicant Response

The main points of the applicant's response to the appeal, submitted c/o Tom Phillips and Associates, may be summarised as follows:

- The school is recognised as an integral part of this inner-city location and the proposed development would remove derelict land, which does not benefit the school, and provide social housing which may accommodate future pupils of the school.

Traffic

- The vast majority of vehicle movements detailed in the Delivery Services Management Plan, submitted as FI, do not conflict with delivery / drop off of pupils to CQNS.
- The proposed vehicular bollards at the egress point will be permanently raised during specified periods in the morning and afternoon to ensure no interference with collection / drop off of pupils.
- The level of traffic arising would have minimal impact on the traffic volume on this street, would not significantly impact on CQNS through traffic during operation or construction and the applicant is willing to engage with the school on these matters.
- The life of the permission for a 7-storey mixed-use block on part of the site under reg.ref.3622/08 was extended and can be implemented until 4th March 2019.

- Appendix A: Barrett Mahony Consulting Engineers' report – in addition to the points above, it detailed that the bollards are to be raised between 8.30am-9.30am and between 2.00pm and 3.00pm. No other additional points.

Construction

- Confirms that Gloucester Street South will not be used by construction traffic during construction activities on site.
- The applicant has no objection to condition no.15(a) concerning submission of a detailed CMP for written agreement, and is willing to engage with the Board of Management of the CQNS to facilitate input in the preparation of the CMP including noise measure controls.
- The proposed development will be managed to ensure no significant impact on CQNS.
- Appendix A: Barrett Mahony Consulting Engineers' report addresses the issue of potential construction impacts. No additional points.

Overlooking

- There is very little potential for overlooking of this space and does not adversely impact on the amenity or safety of the playground.
- The Planners report did not consider overlooking to be a significant issue.
- MCA Architects' report, attached to the appeal, illustrates worst-case scenario sightlines from the school playground to the proposed development. Arising from same, the applicant proposes to provide opaque glazing to balcony screens at 7th floor level of the development and at 5th and 6th floor of the proposed residential units facing onto Gloucester Street South.
- There is no basis for the concern raised about interaction between hotel users and pupils and the passive surveillance arising from the development would limit the opportunity for anti-social behaviour and vandalism of school property (photo shows smashed window at 2nd floor level of school).
- Potential social housing tenants are vetted by An Garda Síochána in relation to anti-social behaviour.

Overshadowing

- The Shadow Analysis considered the massing of the proposed development to be similar to any other E/W streets and typical of the Dublin urban cityscape and that the daylight/sunlight conditions are consistent with the overall pattern of development experienced elsewhere in Dublin.
- The school already uses artificial lighting (see photo taken before noon on November 17th).
- There are a number of trees along the southern elevation of the school, as well as metal security grids and timber louvers which limit access to sunlight to these rooms, but are not shown on the appellant's drawing of the southern elevation of the school.
- The school is already overshadowed by existing buildings to the south, particularly in morning and evening, with the single-storey element nearly entirely in shadow at all times.
- Extant permission reg.ref.3622/08 would provide similar levels of overshadowing.
- Appendix B: MCA Architects report illustrates the potential extent of overlooking arising from the proposed development.

Other

- High quality scheme which responds positively to the site's existing context.
- Provides the redevelopment of an entire city centre block and will revitalise the area.
- No significant impact on CQNS through overlooking or overshadowing.
- The provisions of the Dublin CDP 2016-2022 and the George's Quay LAP 2012 should be considered in the determination of the appeal by the Board.

6.3. Planning Authority Response

No further comment to make.

6.4. Observations

None.

6.5. Further Responses

In its further response, the third-party appellant, the Board of Management of City Quay National School, reiterates many of the points already made in the appeal. A synopsis of the main additional points may be summarised as follows:

Impact on City Quay NS site

- The Key Framework Strategy under the LAP for the City Quay Site provides that the design of future development seeks to sensitively integrate the school alongside other uses identified as one of three significant sites for redevelopment.
- It is a strategic objective of the LAP that the design and form of buildings at City Quay address the need to protect the amenity and setting of, inter alia, the City Quay School.
- These objectives should equally be applied to the assessment of any development proposed in proximity, including the current application site.

Traffic impacts on school operations / pupil safety:

- There are no vehicular access points serving any development along this section of street, at present very lightly trafficked and defined as a lower order street under the LAP.
- The LAP provides that any future design of the site requires due regard to creating a safe and user friendly public realm around the site and include, inter alia, enhanced pedestrian crossing points at Moss Street / Gloucester Street corner and traffic calming measures along Gloucester Street and in the vicinity of church and school. These improvements are represented in plan in the LAP for the City Quay site.
- The existing entrance / exit to Bracken Lane onto Moss Street has been the proposed service point for development previously proposed on this block and is the appropriate location for service access and could be widened to

accommodate two-lanes. The current proposal is incompatible with creation of safe environment in the public realm envisaged under the LAP.

- The applicants' proposal to prohibit access/egress between 08.30-09.30 hours and 14.00-15.00 hours are totally unacceptable and conflict with the times children move to / from school; condition 15(b) is totally deficient; access should be prohibited between 08.00 and 16.00 hours by condition.

Construction management

- The LAP's framework strategy for the City Quay site provides that construction works shall be minimised during school term time, shall be subject of assessment in planning applications and any permission will be subject of conditions to ensure normal school activity is not disrupted.
- If permission is granted, as a matter of critical importance to the school, a condition should be attached requiring the formulation of a noise construction management / vibration plan, including baseline testing, imposing appropriate noise / vibration limits, monitoring requirements and procedures to notify the City Council on any breaches of limits.
- Condition required to control vermin displaced by development.

Overlooking

- No details of proposed obscure glazing to development.
- Viewpoint 1 shows lower floor windows will overlook also.
- Direct overlooking of the school windows from bedroom windows to the aparthotel rooms within 10-11m, that anyone can rent an overlooking room.
- Potential for interactions between guests and pupils remains a concern.

Overshadowing

- The school lighting is light responsive and increased reliance on artificial light will reduce the amenities of the school.

7.0 Assessment

I consider the main issues arising under this appeal can be considered under the following headings:

- 7.1 Principle / general policy
- 7.2 Impact on built heritage
- 7.3 Visual impact
- 7.4 Proposed uses
- 7.5 Standards for residential development
- 7.6 Impact on amenities
- 7.7 Accessibility, street design and sustainable transport
- 7.8 Appropriate Assessment

7.1. Principle / general policy

- 7.1.1. The application site is zoned Z5 City Centre '*to consolidate and facilitate the development of the central area and to identify, reinforce, strengthen and protect its civic design character and dignity*' under the Dublin City Development Plan 2016-2022. The site is also within the boundary of George's Quay Local Area Plan 2012, which repeats the zoning objective, but does not set specific objectives for the site as it does for the City Quay site to the north (and for the Hawkins House and Tara Street Station sites).
- 7.1.2. It is Council policy under the Development Plan (SC29) '*To discourage dereliction and to promote the appropriate sustainable re-development of vacant and brownfield lands, and to prioritise the re-development of sites identified in Dublin Inner City Vacant Land Study 2015*'.
- 7.1.3. There is much precedent for largescale redevelopment of whole or part city blocks in this area, including a largescale mixed-use development of up to the northeast with frontage to City Quay. The principle of redevelopment of this large city centre, brownfield site for mixed use development is generally acceptable.

7.2. Impact on built heritage

- 7.2.1. There are a number of existing buildings on site, two of which would appear to be of some historical, social and / or streetscape importance – No.44 Townsend Street (Ned’s public house at junction of Moss and Townsend Streets) and Moss Street tenements (junction of Moss Street and Gloucester Street South). There is nothing, including the report of the Council’s Conservation Officer, to indicate that any of the other existing buildings on site are of heritage significance.
- 7.2.2. **Ned’s public house** - No.44 Townsend Street is a 3-storey, brick-faced, early 20th century public house building which holds the corner with Moss Street. It appears in good condition and to have been in active use until relatively recently. It is not a Protected Structure and is not located within an Architectural Conservation Area or Conservation Area under the City Development Plan. It is, however included in the NIAH as a building of regional architectural, historical and social interest, developed in 1913 as an early house for dockworkers coming off nightshift.
- 7.2.3. The applicant submitted an Architectural Heritage Assessment prepared by Molloy & Associates Architects, with the application, but the report does not address the no.44 Townsend Street. The Council’s Conservation Officer’s report suggests that no.44 has streetscape value, but does not indicate that it is otherwise of any specific built-heritage value. I do not dispute the Conservation Officer’s assertion that the proposed replacement of the no.44 structure (and Moss Street tenements) would radically alter the character and grain of the area, particularly given how these buildings hold their respective corners on the streetscape. No.44, although in no obvious way architecturally remarkable, addresses both streets positively and appears representative of typical secondary street architecture in Dublin in the early 20th century.
- 7.2.4. **Moss Street tenements** - The Moss Street tenement building is not included in the Record of Protected Structures, is not currently proposed to be added to the RPS, is not located within an ACA or Conservation Area and does not appear on the NIAH records.
- 7.2.5. The AHA report provides a detailed, informative and objective review of the tenement building (section 3.0-4.0, inclusive), indicating that they were designed by Dublin Corporation in 1915 and completed by 1917, with a pair of similar tenements

located at the corner of Luke and Townsend Street (fig.3 original floor plan). It considers the building to be of social interest as a rare surviving example of one of the earliest social housing developments undertaken by the Corporation, built in response to the housing crisis then being experienced in Dublin city. It notes that, whilst architecturally utilitarian, the care was taken in its detailing is worthy of mention (Plates 10-13 refer) and that its presence is considered to contribute to the historic social fabric of the area which has had a long history of residential occupation. Although the structure has suffered significant and ongoing internal damage through water ingress through the damaged roof, the AHA reports that it appears sound (it is constructed of brick masonry and concrete floors). The AHA makes no comment on the proposed demolition other than it should be preceded by a detailed inventory.

7.2.6. The reported social interest of the tenement building is supported by the Council's Conservation Officer who considered that a special case should be made for this building, that the demolition of the tenement is not justified and its removal would be a significant loss to the understanding of the area and the evolution of social housing, in addition to a missed opportunity to provide for a diversity in housing type. In this regard she highlights that, under the Development Plan, *'the re-use of existing buildings should always be considered as a first option in preference to demolition and new build'* (s.16.2.1 Design Principles; s.16.2.1.2 Sustainable Design). I note, also, S.16.10.17 of the Plan (*Retention and Re-Use of Older Buildings of Significance which are not Protected*) which provides that where it is proposed to demolish older buildings, not being Protected Structures, *'the planning authority will actively seek the retention and re-use of buildings/structures of historic, architectural, cultural, artistic and/or local interest or buildings which make a positive contribution to the character and identity of streetscapes and the sustainable development of the city'*, and policy CHC1 which seeks to preserve *'built heritage ... that makes a positive contribution to the character, appearance and quality of local streetscapes and the sustainable development of the city.'*

7.2.7. The George's Quay LAP (s.4.6 Built Heritage) recognises that little historic fabric remains in this historic working-class area. It is the built heritage policy (1) of the Council under the LAP *to [...] promote the restoration and regeneration of historic buildings*, not only Protected Structures. Although it does not refer to either the

tenements building or no.44, the proposed demolition of the very early social housing scheme (Moss Street tenements) would appear to go against the objective (no.1 under s.4.5 Housing) of the LAP '*to promote the renewal and refurbishment of existing housing schemes while protecting the built heritage of social housing*' in the area.

- 7.2.8. In response to a further information request concerning, inter alia, the above conservation issues, the applicant has submitted another report prepared by Molloy & Associates Architects reiterating that the buildings have not been afforded any statutory protection (e.g. by inclusion on RPS or within an ACA). Molloy submits that this means they buildings are not afforded any relaxation from statutory building regulations and that the extensive modification required to meet current standards, are deemed unviable by developers. This does not appear to be correct. The Building Regulations recognise that, in the case of existing buildings, the adoption of the guidance without modification may not always be appropriate and that the adherence to guidance including codes, standards or technical specifications, intended for application to *new* work may be unduly restrictive or impracticable, especially for buildings of architectural or historical interest and alternative approaches may be considered.
- 7.2.9. The applicant also submitted that having regard to policy FCO26 (replaced by CHC3 in the current Development Plan – to identify and protect exceptional late 20th C buildings), the tenements were not recommended for inclusion in the RPS and have not been included in the RPS under the recent development plan process. The Conservation Officer indicated that a review of the record is being carried out, but that this part of the city is yet to be appraised. The failure of the Council to identify the tenements in the process proposed under policy CHC3 cannot therefore be taken as proof that the building is not of significance.
- 7.2.10. Molloy argued that the demolition of historic buildings is a predictable consequence of the omission from the Development Plan (RPS or ACA). That a building is not on the RPS or within an ACA does not mean its demolition is acceptable under the Development Plan. As noted above, the Development Plan and the LAP contains policies in favour of retaining older buildings of significance that are not protected structures. Molloy also submitted that the propped demolition was accepted by the Authority under permission reg.ref.2491/09 (expired), however that decision related

only to no.44 and to the other buildings on Townsend Street. That decision did not encompass the Moss Street tenements and I could locate no other previous permission authorising the demolition of the tenements.

7.2.11. Tom Phillips & Associates submitted to the Council that the cellular configuration of the existing tenement building does not lend itself to alternative contemporary use and is not suitable for modern residential accommodation or hotel/hostel use and that the cost of refurbishment / renovation of the structure, which has fallen into a state of disrepair whilst in the control of DCC, would be prohibitive. Although no information was submitted to support the applicant's contention, it is a safe assumption that the retention and reuse of the said buildings would be less profitable for the developer.

7.2.12. **Other built heritage** – The site is within the zone of archaeological potential for the city. The applicant has submitted an Archaeological Assessment Report by IAC Ltd, which is acceptable. Should permission be granted, I consider this issue can be satisfactorily addressed by standard condition.

7.2.13. The kerbing to the public pavement to Gloucester Street South and a section of pavement on Moss Street adjacent no. 44 (Ned's) comprises traditional granite kerbing, sets and basement light well and access. It is the policy (CH15) of the Council to retain in situ historic kerbing and setts identified in appendices 7 and 8 of the Plan. Appendix 7 of the Development Plan requires such features to be retained in situ or restored, but only in certain locations, which do not include the application site, however appendix 8 includes Townsend Street for paved areas with granite kerbing and/or other traditional features, such as coal-hole covers to be retained or restored and included in the City Council's Programme for Restoration. It would be desirable to retain historic sets and kerbing where possible.

7.2.14. **Conclusion** - Notwithstanding that the Moss Street tenements building is not included in the City's RPS, not located within an ACA and is not included in the NIAH there is evidence that it is of significance social and historical interest as one of two of the earliest urban social housing development in Dublin city, built at a time of rapid social and political change in the state and therefore within the context of formal city planning in Ireland, possibly of national significance. No.44 Townsend Street (Ned's Pub) has been rated as of regional significance in the NIAH. Within the context of

the eastern section of the LAP, a historical working-class area where little historic fabric remains, the value of these two corner buildings are of even greater significance, in addition to their intrinsic streetscape value. Having regard to the policies and objectives concerning built heritage under the Dublin City Development Plan 2016-2022, I consider the proposed demolition of the two said structures to be contrary to the provisions of the Plan and to the proper planning and sustainable development of the area.

7.3. Visual impact

- 7.3.1. The applicant submitted a photomontage booklet with the application, amended by further information submission to take account of alterations to the proposed external finishes. I consider these to provide a good indication of the potential visual impact of the proposed scheme and the vantage points used are appropriate and sufficient in their extent.
- 7.3.2. **Visual overbearing** - The proposed development, by reason of its scale, massing and height, would clearly have a significant visual impact on its surroundings, most obviously on the immediate streetscape to the north, south and east and on approach to those streets. The significance of the visual impact will depend on, inter alia, the height and massing of the proposed development abutting the street relative to width of the street and public footpath, which will provide a contextual scale for the viewer (pedestrian, etc.). It will also be influenced by the scale of surrounding buildings, that is whether the proposed development is larger or smaller than adjacent development, and there may be a cumulative impact with those neighbouring developments in terms of visual impact and potential overbearing.
- 7.3.3. This can be perceived from photomontage V5 along Gloucester Street South, which is a about 10.5m in width (façade to façade), with the adjacent pedestrian pavement only c.1.35m in width (no changes proposed). I consider the scale of the 8-storey building is likely to be perceived as significantly overbearing on this relatively narrow street, perhaps exacerbated by the by scale of the Ulsterbank building terminating the vista east on the street. It would be significantly higher than the (generally) 5-storey buildings on the street, including the height of the permitted development (PL29S.245492) under construction at City Quay, which presents a 5-storey frontage to the Gloucester Street South (behind which an 8-storey element is setback on

average c. 5.5m) notwithstanding that the LAP allows for up to 10-storey development backing onto this street for the City Quay site. In my opinion the recently developed and developing buildings feel somewhat overbearing on this narrow street and I consider the height of the proposed development to Gloucester Street South to be excessive and out of character. The Board may consider limiting the height of the proposed building to Gloucester Street South. This could be further alleviated by providing wider pedestrian pavements to the street, but this is outside the control of the applicant.

- 7.3.4. Photomontage V6 (and V3) provides some indication as to how the scale would be perceived differently between Gloucester Street South (to the left-hand side of the picture) compared to Moss Street. Moss street, at c.14.5m in width (adjacent pedestrian pavement c.1.8m (S) to c.2.35m (N) in width), would be increased to c.15.8m, with a pavement of, generally, 3.2m to 3.6m (inclusive of kerbs and planting). The proposed massing and scale appears more proportionate to Moss Street context, even though it significantly greater than the 5-storey buildings along this section of the street.
- 7.3.5. Photomontages V2, V4 and V10 provide an indication of the visual impact on Townsend Street. The site is located on a relatively narrow section of that street, where the street is c.13m in width and the adjacent pavement ranges from c.2.6m (W) to 3m generally. The massing and scale appear more significant than on Moss Street but less so than on Gloucester Street South.
- 7.3.6. **Visual intrusion** - The proposed development would be visible from sensitive sites in the wider area in medium distance views. The Conservation Officer raised concern about the potential impact on the setting of the Mariner's Church (Protected Structure), to the north on City Quay. Given the rapid evolution that has occurred in the immediate and wider contextual built setting of the Mariner's Church, I do not concur with the views of the Conservation Officer.
- 7.3.7. **Taller buildings** - The proposed buildings would be up to 8-storeys, or c.32.3m in height. The Council's approach to taller buildings is set out under section 4.5.4 of the CDP and is concisely set out in policy SC16, which recognises Dublin as a low-rise city and protects the intrinsic quality associated with same, but also recognises the potential and need for taller buildings (50m +) clustered in a limited number of

locations (4no.), in addition areas (10no.) where mid-rise development (up to 50m) may be accommodated. The locations for taller and mid-rise developments are identified in the Plan in Fig 39 *Building Height Map in Dublin* (Fig.39) and in the table to s.16.7.2, with maximum¹ height limits in metres stated per use type. The site is not located within an area where buildings, other than low-rise, are permitted. Within this particular inner-city location, a limit of 28m applies to commercial development and 24m for residential development.

7.3.8. There is, however some ambiguity in the Plan concerning development height. S.16.7.2 indicates that all areas in the aforementioned table are '*considered to be in the low-rise category unless the provisions of a LAP/SDZ/SDRA indicate otherwise.*' The Council's Planning Officer considered the provisions of the George's Quay LAP 2012 (S.4.4 (2) *A strategy for appropriate scale and height*), which allows development height of up to 32m to override the low-rise limit applicable under the Development Plan.

7.3.9. The LAP 2012 predated the adoption of the current CDP 2016. According to Section 18(4)(b) of the Planning and Development Act, 2000, as amended:

A local area plan may remain in force in accordance with paragraph (a) notwithstanding the variation of a development plan or the making of a new development plan affecting the area to which the local area plan relates except that, where any provision of a local area plan conflicts with the provision of the development plan as varied or the new development plan, the provision of the local area plan shall cease to have any effect.

On 12/06/17, the Council decided, by resolution under section 19(1)(d) of the Act, to effectively extend the life of the LAP by a further 5 years. The decision was informed by the Chief Executive Report, issued under S.19(e)(ii) of the Act, which concluded that the LAP remains consistent with the objectives and core strategy of the CDP 2016-2022.

7.3.10. S.4.4 (2) of the LAP clearly refers to the approach of the City Council to taller buildings under the previous CDP, which identified 4no. locations for high rise development, including George's Quay. Under the current CDP there is no provision

¹ S.4.5.4.1 confirms that these are maximum limits.

for taller buildings, or medium rise buildings within the George's Quay LAP boundary and it is therefore evident that the provisions of the Lap conflict with the provision of the said CDP. Having regard to section 18(4)(b) of the Act, the said provisions of the LAP cannot have effect and should be disregarded. Therefore, the 24m residential height limit and 28m commercial height limit under the City Development Plan apply to the proposed development. The Plan would seem to be silent on mixed use blocks, notwithstanding that it promotes commercial use on ground floor level in all inner-city developments, and it is reasonable to assume that limit applies to the predominant use of the building.

7.3.11. The proposed residential apartment building (block 2) would extend to a maximum of 26.88m² in height according to drawing 2015.93.P-5002, exceeding the maximum limit by approximately one residential floor level. The omission of the sixth-floor level would reduce the height sufficient to technically comply with the Development Plan policy and would ensure that that section of the development ties in more appropriately with the existing development to the west on Gloucester Street South.

7.3.12. The balance of the proposed development is commercial. In general, the development is 26.655m in height, excluding lift overrun and screened plant (see section drawing 2015.93.P-5001), but extends to 29.905m at the two corners on Moss Street. The proposed hotel (block 1) and aparthotel (block 3) on Moss Street would have ground floor levels raised c.0.765m (to 4.015m OD) above the adjacent street level, adding to their overall height. In addition, the top floors at the corner elements of those buildings are c.4.8m on the street frontage (compared to 2.925m³ for the hotel rooms / aparthotel suites otherwise), ostensibly to provide screening for rooftop plant. This is excessive. The location and screening of plant could easily be designed in a manner that would allow it to be screened with less prominent architectural interventions. The proposed development exceeds the maximum limit of 28m applicable in this location. It would be possible to reduce the height of the commercial element to meet the 28m limit by lowering the proposed ground level (by 0.765m) to 3.205m OD (assumed) to match that of the proposed restaurant and retail units and reducing the overall height of the top floor level by c.0.3m.

² The residential floors are 3105m each and the commercial ground floor, 3915m, compared to the 3m and 4m standard

³ This is less than a standard residential floor level (3m) or commercial floor level (4m).

- 7.3.13. Given the disparity in scale between the development to the west on Townsend Street, the Board should also consider whether it would be appropriate to reduce the height of the aparthotel by the omission of one floor level (level 6).
- 7.3.14. Other built heritage - I would not agree with the CO's conclusion that the proposed development would '*greatly diminish the setting of the Mariners' Church as viewed from the river*' given the radically evolved contextual surroundings of the church in recent decades.
- 7.3.15. **Conclusion** - The proposed development, due to the height and massing proposed to Gloucester Street South, would be overbearing on the public realm and out of character with existing development, including development under construction, and by reason of the height of the overall development, would materially contravene Council policy SC16 and the Council's strategy for building heights set out under sections 4.5.4 and 16.7.2 of the Development Plan 2016-2022, which supersede related provisions under George's Quay LAP 2012.

7.4. **Proposed uses**

- 7.4.1. The proposed development comprises one 393-bedroom hotel (10,686-sq.m GFA), two aparthotels (combined 202no. suite, 8,278-sq.m GFA) and one residential apartment building (21no. units, 2,068-sq.m GFA), in addition to a ground floor restaurant (482-sq.m GFA) and retail unit (110-sq.m GFA). The commercial elements account for the vast majority of the proposed use by floor space, with the residential development comprising less than 10% of the GFA. Together, the secondary uses (residential, restaurant and retail) account for c.12% of GFA.
- 7.4.2. As noted above, the proposed mix of uses are all either permitted in principle or open for consideration within the city centre (Z5) land use zone. For large-scale development (s.16.2.2), the Council seeks to provide an appropriate mix of uses, with particular emphasis given to new and complementary uses and facilities that expand and improve the existing range of uses and facilities in the area, but no minimum standard is set in this regard. Under the George's LAP it is the land use objective (2 under s.4.1) that 20% of proposed floor area to be devoted to uses other than the primary use. I consider this objective to be consistent with the Development Plan. The mix of uses falls significantly short of the objective and therefore may be

considered to materially contravene an objective of the LAP. Furthermore, the proposed floor heights (above ground level) of the hotel and aparthotel (2.925m) fall well below the conventional 4m for commercial developments and marginally below the 3m for residential (or greater height is required where access to sunlight / daylight is an issue) according to the Development Plan, s.4.5.4.1 Taller Buildings. The flexibility of the proposed development to accommodate changes of use over time would therefore appear very limited, which is undesirable from a sustainability perspective.

- 7.4.3. Given the policies and objectives for housing set out in the LAP (s.4.1 promotes a mixed-use character for the area to support the creation of a vibrant central city district, with residential more prominent at the eastern end) and in the Development Plan (Chapter 5 Quality Housing), and in view of the current housing crisis in the state, the residential element of the proposed scheme may be seen as less than optimum, however I could find nothing in either plan requiring development on this site to include a set proportion (or indeed any) residential units.
- 7.4.4. The lack of flexibility inherent within the proposed scheme by reason of inadequate floor heights, in addition to the inadequate mix of uses which fall significantly short of the 20% requirement under the LAP, contravenes an objective under the LAP for such development and is contrary to the proper planning and sustainable development of this inner-city area.

7.5. **Standards for residential development**

- 7.5.1. The standards for development are set out under Chapter 16 of the Development Plan, including under s.16.10 Standards for Residential Accommodation, with additional standards set out within the appendices in Vol.2 of the Plan.
- 7.5.2. **Residential density** – The area of the site accommodating residential use (Block 2) and ancillary space measures c.600-sq.m, although this includes some external space required to access facilities within the commercial development. At 21no. residential units, the residential density on 0.06ha calculates at 350uph (net). The balance of the application site is commercial in nature and separate to the contained residential building and therefore it is inappropriate to calculate residential density based on the overall site area.

- 7.5.3. The policies and objectives in the City Development Plan (s.2.2 Core Strategy) promote the intensification and consolidation of the city and seek sustainable densities (policies SC13 and QH7 also refer), but does not provide specific density standards. Rather the Council (s.16.4 Density Standards) promotes ‘*sustainable residential densities in accordance with the standards and guidance set out in the DEHLG Guidelines on Sustainable Residential Development in Urban Areas.*’ The SRDUA advises that, in principle there should be no upper limit on residential density in city centre locations, but rather focuses on the relevant safeguards that would enable higher densities to be accommodated within the existing urban fabric. Similar safeguards are provided for in the Development Plan, which requires the density of the proposal should respect the existing character, context and urban form of an area and protect existing and future residential amenity. The Plan promotes an urban design and quality-led approach for such development and requires that development must demonstrate how it contributes to the place-making and identity of an area in addition to the provision of community facilities and / or social infrastructure.
- 7.5.4. The Plan includes standards for plot ratio and site coverage. The proposed development has a plot ratio of 4.95 compared to a standard of 2.5-3.0 for zone Z5. Under the Plan a higher plot ratio may be accepted in this location given its proximity to a major public transport terminus and corridor, however there are indications within the layout and arrangement of the proposed development that the proposed plot ratio may be excessive (I discuss these below). The proposed development does not exceed the indicative site coverage standards are 90% in Z5.
- 7.5.5. **Mix of Residential Units** – Whilst the Plan sets a maximum of 30% one-bed units and a minimum 15% three-bed units within any residential scheme of 15 units plus, this requirement may be waived for, inter alia, certain social housing needs. In this regard, the Planning Authority may permit flexibility in its statutory plan under the Departmental design standards. The proposed residential scheme is a social housing development to be provided on behalf the Council. The Planning Authority has accepted the proposed mix of units. Given the nature of the housing and relatively small scale of the proposed residential block, I consider the mix to be acceptable.

- 7.5.6. **Apartment internal space** – According to the applicant’s Planning and Environmental Report, the proposed one-bed units have GFA of between 60-63-sq.m and the two-bed units a GFA of c.85-sq.m, which would exceed by more than 10% the minimum floor area standards for such units under the Development Plan (45-sq.m and 73-sq.m, respectively) and under the Department’s apartment design standards of 2015.
- 7.5.7. **Private open space** - The proposed development exceeds the Development Plan quantitative standards for private open space per unit type with its primary balconies. In this context, the substandard secondary balconies, which at 0.9m deep fall short of the 1.5m requirement, are acceptable.
- 7.5.8. **Communal open space** is provided to the rear of the proposed residential units, at ground floor level. FI drawing no.2015.93-P-6000 delineates the boundary to that area, which measures c.155-sq.m in area. The standards for communal space are included under S.16.10.1 Residential Quality Standards – Apartments, which requires 5-sq.m, 7-sq.m and 9-sq.m per one-bed, two-bed unit and three-bed unit respectively. The proposed apartment block of 14no. one-bed and 7no. two-bed units therefore exceeds the minimum quantitative requirement for 119-sq.m communal open space. However, I consider the space to be deficient in terms of quality.
- 7.5.9. The space is not secure for residents’ use, but open to public through routes. The space does not provide a reasonable degree of privacy for the resident occupants, as it is directly open to public routes through the block, adjacent to all the utilities access areas for the commercial development, including the access to waste stores, in addition to substations, switchrooms, emergency escapes. Finally, it would appear (based on the height of the existing and proposed adjacent buildings, and the angle of the sun at the summer solstice) that the space would not receive any direct sunlight even in summer and would have very poor access to daylight. In my view, notwithstanding the open space design concepts set out in Studio AULA’s Landscape Design Rational Report and the proposed planting and layout of the space, the proposed space will not provide an acceptable level of amenity to the residents and the proposed development may therefore be considered substandard.

- 7.5.10. In this instance a raised platform at level 1 (first floor) would provide a more appropriate communal open space amenity for the residential block (assuming it would be accessible from the proposed internal stairwell), in that it would be secure and relatively private, although it would have only marginally better access to sunlight and daylight. Should the Board decide to grant permission I would advise that a condition be attached requiring the scheme to be amended to accommodate same, in agreement with the Planning Authority.
- 7.5.11. **Open space** – S.16.3.4 of the Plan requires 10% site to be provided as public open space for all developments. It allows, however, that this may be provided offsite by way of financial contributions on such sites and I accept that this is the appropriate course of action for this inner-city site. That no public open space it proposed to be provided on site is reasonable. The Planning Authority did not attach an additional development contribution in lieu of public open space provision and the s.48 DCS condition calculations sheet indicates that no additional sum was added in respect of the shortfall. Should the Board decided to grant permission, it may consider it reasonable to attach an additional contribution condition for agreement between the Planning Authority and applicant.
- 7.5.12. **Access to light** – The Development Plan refers the Department’s design standards (apartment guidelines of 2015) in this regard. Two thirds of the proposed units are dual aspect in design, exceeding the specific policy requirement of 50% minimum. However, all single-aspect units within the scheme face north (slightly north-northeast) and will have very poor access to direct sunlight. Whilst this may be acceptable where the said units overlook a significant amenity, I do not accept that this applies in this case. The applicant’s submission that the apartments benefit from views towards the River Liffey do not hold water as the potential views are across a city block and there will be no amenity benefit to the proposed units, except for very limit benefit to the uppermost floors.
- 7.5.13. Furthermore, it would appear that the dual aspect apartments at level 1 will receive no direct sunlight to the south-facing windows, even at the summer solstice. Access to direct sunlight for the upper units will decrease steadily to the winter solstice where it would appear that only the top floor units will receive direct sunlight and only the top two floor levels will receive direct sunlight at the equinoxes due to the proposed orientation of buildings on site (along an east-west axis), their proximity

(within 11m) and height resulting from the quantum and arrangement of development proposed. Accordingly, it can be concluded that the proposed units will provide insufficient residential amenity.

- 7.5.14. **Privacy** – The Development Plan appears to be silent on the issue of potential overlooking / privacy issues in relation to apartment developments, notwithstanding that it refers to this issue for other types of residential developments including mews dwellings, backland development and residential extensions. The south-facing elevation of the proposed apartments would directly face the north-facing elevation of the hotel block within c.11m, or 11.9m taking account of balconies (for comparison, the distance between the Board's offices and the office building facing it to the east of Marlborough Street is approximately 18m).
- 7.5.15. The residential rooms concerned are bedrooms, as are those in the hotel, rather than active living space, which would reduce their sensitivity to a degree. They are, however, the only south-facing rooms and private open spaces (the other rooms face approximately due north) and such space (including private balconies) will therefore be of relatively high importance to the units, at least on the upper floor levels where there is access to direct sunlight.
- 7.5.16. Neither the Development Plan, nor the relevant Department's Section 28 guidelines set minimum standards in terms of back-to-back facing windows concerning privacy, but this does not mean that a separation distance between facing winds of less than 12m (11m including private balconies) is necessarily acceptable. However, in my professional opinion the proposed development layout is far from ideal in terms of the resulting levels of privacy and residential amenities that would be achieved within this development and, in this regard, it does not constitute a sustainable form of residential development.
- 7.5.17. **Other amenities** – A bicycle storage area is provided at ground floor level in the apartment block. The number of bikes that can be accommodated is not entirely clear but would appear to be 28no. This would exceed that required minimum standard of 1no. space per apartment (CDP table 16.2).
- 7.5.18. **Conclusion** – The proposed development, by reason of inadequate access to daylight and sunlight, lack of privacy arising from directly opposing windows within 12m, and communal open space of inadequate quality, constitutes a substandard

form of residential development that provides inadequate residential amenity, is not a sustainable residential scheme and is contrary to the guidelines for Sustainable Residential Development in Urban Areas.

- 7.5.19. I would suggest that a perimeter block arrangement around a central open courtyard might provide a more appropriate model of development on this large site.

7.6. **Impact on amenities**

- 7.6.1. The proposed development would have no significant adverse impact on the amenities of residential property in the vicinity. Having regard to the details provided by the applicant, including further information, I am satisfied that the level of overlooking on City Quay National School to the north, would not be deleterious or out of character with the levels that would be expected in this city centre location. The proposed development will result in significant overshadowing of the CQNS building, but I do not consider this to be excessive and it will have minimal impact on sunlight access to the school yard. The proposed development will improve the visual amenities and streetscape context of the school through the removal of existing vacant sites and buildings and, potentially, through the provision of lively ground floor uses opposite the school.

7.7. **Accessibility, street design and sustainable transport issues**

- 7.7.1. **Accessibility** - to the proposed hotel and aparthotel on Moss Street do not provide access for all as required by policy SN29 which requires that new development must accord with the principles of Universal Design, the Development Plan's *Access for All Standards* and the NDA's *Buildings For Everyone*, which recognise the importance for level entry (i.e. absence of steps) to buildings. The proposal to have a raised ground floor level necessitates a flight of steps and external wheelchair lifts to access lifts (space appears to have been made for same adjacent the steps at each entrance, although they are not indicated as such). Similarly, whilst the access to the proposed apartments is a level entrance, there are steps inside the entrance lobby, necessitating a wheelchair lift due to the change in floor levels. There is no obvious structural reason for the raised floor level. I consider it inappropriate to

address such a basic design issue by way of condition as the Council has done with condition no.24.

- 7.7.2. **Street design** – It is council policy (SC19) *to promote network of active, attractive and safe streets...which encourage walking [...]. In the case of pedestrian movement within major developments, the creation of a public street is preferable to an enclosed arcade or other passageway*. It is also policy (SC24) *'to consolidate and expand the Pedestrian Wayfinding System which will provide for a more coherent system of pedestrian signage'*. George's Quay LAP (Fig.16) identifies Moss Street and Townsend Street (and the junction between the two) as priority pedestrian routes, and Gloucester Street South as part of a future pedestrian route from Tara Street through to Lombard Street East (movement and access strategy s.4.3), for which it is an objective to implement pedestrian infrastructure improvements on these routes.
- 7.7.3. As highlighted by the third-party appellant, the site framework strategy for the City Quay site to the north (s.5.2) identifies enhanced pedestrian environment, including crossings on Gloucester Street South and Moss Street, in addition to widening of the public footpaths to Moss Street and Prince's Street through increased building setbacks. The applicant has provided for some improvement to footpath widths along Moss and Townsend Streets through setting back the existing building line by almost 3m in some locations. The width of the pedestrian footway (i.e., excluding space allocated to proposed tree planters) to those streets footpath ranges from 2m to 3m generally.
- 7.7.4. Apart from the westernmost c.9m of Gloucester Street South, which is to be increased to c.2.1m in width, the pedestrian pavement is to be maintained at c.1.35m and no pedestrian crossing points are proposed on the street or at the junctions. At 1.35m the pavement would be significantly substandard the minimum 1.8m width indicated in the Design Manual for Urban Roads and Streets (wider paths are advised for areas of higher context values, such as the site location, i.e. within a centre, and with increasing movement function). The street provides access to the City Quay National School, with access predominantly gained on foot. Adequate pedestrian facilities are clearly essential for the safety of school children and other pedestrians, but also to ensure reasonable amenities for this rapidly developing area. It would not be appropriate to setting back of the building line to Gloucester

Street South given the existing building is set to the east. As improved pedestrian facilities would therefore necessarily have to encroach on the carriageway, this is a matter for the local authority, not the applicant.

- 7.7.5. The Council's Roads and Traffic Planning Section (08/06/17) indicated that footpaths of at least 2m (excludes any area overhung by development) are required for Moss Street, but did not comment on proposed pedestrian facilities on the other streets or within the site. Appendix 18 Taking in Charge Residential Development, referring to the '*Standards Required*' (s.18.4), merely requires such infrastructure to be constructed in accordance with the planning permitted granted. There are no standards provided in the Development Plan other than for suburban residential housing (appendix 18) and industrial / business park developments (appendix 5). There is no clear design strategy for pedestrian infrastructure that would enable developers to implement the Council's movement and access strategy within the LAP. In this context it would be unreasonable to refuse development on grounds of pedestrian infrastructure, notwithstanding the provisions of DMURS. Rather it is likely that the Local Authority will have to retrofit the appropriate infrastructure at a later date.
- 7.7.6. **Block permeability** - In terms of permeability, the site layout largely retains Bracken Lane off Moss Street as a time-restricted service route and pedestrian route, linking it to Gloucester Street South via an under-croft to the aparthotel. A pedestrian route from Bracken Lane will connect to Townsend Street via an under-croft to the hotel and southern aparthotel blocks. These routes are generally to be welcomed and, although I would have some concerns regarding the sections of dead-frontage with services doors to waste stores, substations and etc., it is preferable that such facilities are located within the site rather than onto the surrounding public streets and it is on that basis that I would consider them acceptable.
- 7.7.7. I have reservations about the use of under-crofts within the development opening onto the public streets to the north and south, in that to Gloucester Street South, which is c.20m in length, unlike that to Townsend Street (aparthotel entrance), provides no access function to a ground floor unit.
- 7.7.8. **Car parking** –The car parking standards under the Development Plan are maximum standards. No car parking is proposed in the development. The Council's Roads

and Traffic Planning Section raised no objection in this regard due to the site's location in the city centre in proximity to public transport. I consider this reasonable in the site context, but would emphasise that permitting development of the scale proposed without any car parking highlights the need to ensure that pedestrian facilities in the area are to a high standard.

- 7.7.9. **Cycle parking** – The applicant indicates that 87no. parking spaces are proposed in the development, which the Council's Road and Transport Planning Section considered to meet Development Plan standards. Under table 16.2 of the Plan 1no. bicycle parking space is required per residential apartment, with visitor parking determined on a case-by-case basis; and 1no. space is required per 10-bedrooms for hotels in excess of 50 bedrooms. Based on 21no. apartments and 59.5no. hotel bedrooms / suites, at least 81no. bicycle parking spaces are required. The proposed development is compliant.
- 7.7.10. **Other road safety issues** – The third-party appellant is concerned for potential road safety conflict between students accessing City Quay National School and service vehicles using the proposed new exit onto Gloucester Street South from Bracken Lane. The applicant's proposal to limit access to / from the said egress point by raising the proposed bollards between 8.30am-9.30am and between 2.00pm and 3.00pm. I consider this to be reasonable. I would agree with the third party that pedestrian facilities should be improved in the vicinity of the school, but this is a matter for the Local Authority as the street does not fall within the application site boundary or the ownership of the applicant.

7.8. **Appropriate Assessment**

- 7.8.1. The applicant submitted an Appropriate Assessment Screening Report with the application, prepared by Pádraic Fogarty, MSC MIEMA, of Openfield Ecological Services. I note the detailed contents of same.
- 7.8.2. The site is not located within a European site. Within 10km there are four European sites:
- South Dublin Bay and River Tolka Estuary SPA Site 004024 c.2km at the nearest distance (to NE);
 - North Bull Island SPA Site 004006 c.4.9km at nearest distance (to E-NE);

- South Dublin Bay SAC Site 000210 c.2.8km at the nearest distance (to SE);
- and North Dublin Bay SAC Site 000206 c.4.9km at nearest distance (to E-NE).

The Features of Interest / Qualifying Interests for the four European sites, the status of same, and the Conservation Objectives applicable to each site are set out in pages 8 to 12 of the Screening Report.

The Screening Report provides relevant data for the carrying out of the assessment on pages 13 to 15 of the report and an assessment of significance of effects, including in combination effects, on pages 15 to 17. There is no potential for direct impacts as the proposed development is not located within or directly adjacent to the said European sites and would not entail the removal of resources therefrom. The River Liffey forms the main pathway to convey effects between the proposed development (source) and the said European sites (receptors), potentially through surface water runoff (during construction and operation) and, indirectly, through foul water disposal via Ringsend wastewater treatment plant. In this regard I would not agree with the statement in the applicant's Screening Report that there is no pathway for effects to occur to the North Bull Island SPA or the North Dublin Bay SAC. However, I would concur with the Screening Report that, given the nature, design and the scale of the proposed development, there would be no potential for significant effects on any of the said European sites.

Stage 1 screening conclusion – It is reasonable to conclude that on the basis of information on the file, which I consider to be adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on European sites - South Dublin Bay and River Tolka Estuary SPA Site 004024 c.2km at the nearest distance (to NE); North Bull Island SPA Site 004006 c.4.9km at nearest distance (to E-NE); South Dublin Bay SAC Site 000210 c.2.8km at the nearest distance (to SE); and North Dublin Bay SAC Site 000206 c.4.9km at nearest distance (to E-NE) - and a Stage 2 Appropriate Assessment (and submission of a NIS) is not required.

8.0 Recommendation

8.1. I recommend that permission be **REFUSED** for the reasons set out below:

9.0 REASONS

1. The proposed development, by reason of the proposed demolition of two existing corner buildings, No.44 Townsend Street (Ned's) and Moss Street tenements, which may be regarded as of some historic significance, located within an area that is recognised in George's Quay Local Area Plan 2012 as having suffered widescale loss of its historic fabric, would be contrary to the policy CHC1 of the Dublin City Development Plan 2016-2022 which seeks to preserve '*built heritage ... that makes a positive contribution to the character, appearance and quality of local streetscapes and the sustainable development of the city*, to built heritage policy 1 of the Local Area Plan '*to [...] promote the restoration and regeneration of historic buildings*' and, in respect of Moss Street tenements, housing objective 1 of the Local Area Plan '*to promote the renewal and refurbishment of existing housing schemes while protecting the built heritage of social housing*' in the area, and is therefore contrary to the proper planning and sustainable development of the area.
2. The proposed development, by reason of the height of the residential and commercial blocks which exceed the maximum limits set for this location under s.16.7.2 of the Dublin City Development Plan 2016-2022, which supersede conflicting limits set under George's Quay LAP 2012, would contravene materially policy SC16 to protect the intrinsic quality of Dublin as a low-rise city and the Council's approach to Taller Buildings under s.4.5.4 of the Development Plan.
3. The proposed development, by reason of the inherent lack of flexibility for uses within the proposed scheme due to inadequate floor level heights, in addition to an inadequate mix of uses proposed which fall significantly short of the minimum 20% required for secondary uses in contravention of the land use objective 2 of the George's Quay Local Area Plan 2012; and by

reason of the massing and arrangement of development within the site, would provide inadequate amenity for the proposed residential units in terms of access to sunlight and daylight, privacy and communal open space of a reasonable quality, would constitute a substandard form of development that would be contrary to the proper planning and sustainable development of the area.

John Desmond
Senior Planning Inspector

9th February 2018