



An  
Bord  
Pleanála

## Inspector's Report ABP-300171-17

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<b>Development</b>	Demolition and internal layout works to east side to facilitate extension works from ground to seventh-floor level, providing for 40 additional hotel rooms and two conference rooms
<b>Location</b>	The Spencer Hotel, Excise Walk, North Wall Quay, Dublin 1
<b>Planning Authority</b>	Dublin City Council
<b>Planning Authority Reg. Ref.</b>	3710/17
<b>Applicant(s)</b>	Spencer Leisure Investments Ltd.
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant
<b>Type of Appeal</b>	Third-Party
<b>Appellant(s)</b>	Thomas Hayes
<b>Observer(s)</b>	Transport Infrastructure Ireland
<b>Date of Site Inspection</b>	13 <sup>th</sup> February 2018
<b>Inspector</b>	Colm McLoughlin

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## 1.0 Site Location and Description

- 1.1. The appeal site has a stated area of approximately 1,735sq.m and is located on the northside of Dublin city centre, fronting onto North Wall Quay and siding onto Excise Walk. Adjacent to the east of the site is a six-storey office block, 25/28 North Wall Quay (A&L Goodbody), and adjacent to the west is the Clarion Quay development, comprising eight-storey residential blocks with commercial units, including cafés and restaurants at ground floor, opening onto Excise Walk, a pedestrianised street. A service laneway to the north, known as Alderman Way, separates the appeal site from the National College of Ireland buildings, which open onto Mayor Square and Mayor Street Lower Luas stop. Two restaurant buildings with glazed frontages onto the riverside are located on the quayside opposite the appeal site.
- 1.2. Currently on site is a seven-storey hotel over basement comprising 169 guest rooms, conference rooms, gymnasium and leisure facilities, restaurants and open seating areas. The hotel has a stated gross floor area (GFA) of approximately 11,358 sq.m and a stated building height of approximately 26.5m to parapet level and approximately 29.1m to a central lift core. The external finishes to the hotel feature a mix of glass, red brick and stone facing. Above ground floor, the hotel building forms a 'U-shape', with an internal shared courtyard space opening onto the east side with the adjacent office block.

## 2.0 Proposed Development

- 2.1. The proposed development comprises the following:
- Demolition works at ground-floor level to the east-side, removing two conference rooms and circulation spaces, including an interconnecting lobby, with a stated GFA of c.159sq.m;
  - Extension works to provide for an additional stated GFA of c.942sq.m, including two replacement conference rooms at ground floor and a total of 40 additional hotel rooms, each with en-suite washroom facilities, from first to

seventh-floor level, extending the hotel to a total of 209 hotel rooms and a total stated GFA of c.12,300sq.m;

- Proposals also provide for revised internal layouts on all levels with the exception of basement and first-floor levels, provision of six bicycle parking spaces, replacement windows to five existing east-facing hotel rooms overlooking the internal courtyard space, raised rooflights to ground-floor extension and an east-facing balcony enclosed by a glass balustrade to seventh-floor extension;
- Ground-floor extension to be finished in granite stone cladding to match existing and upper floor extensions to be finished in metal cladding;
- Provision of sedum 'green' roof to proposed extensions at ground floor and seventh floor.

**2.2.** The Application was accompanied by a Planning Report, Architectural Report, Shadow Analysis Study, a set of Photomontages, Civil Engineering Infrastructure Report, Engineering Drawings and a letter that is stated to be from the owner of the adjacent office block at 25/28 North Wall Quay, confirming that they have 'no issues with the proposal'.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

3.1.1. The Planning Authority decided to grant permission subject to 12 conditions, generally of a standard nature, including the following:

- C.2** Section 48 General Development Contribution;
- C.3** Section 49 Supplementary Development Contribution;
- C.6** Submission and agreement of a Construction Management Plan;
- C.8** Noise level limitations.

### **3.2. Planning Authority Reports**

3.2.1. Planning Report

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

- Extension of the existing hotel is permissible under the 'Z5-zoning' objective;
- Proposal would not impact on the Conservation Area along the quayside frontage to the site;
- Having regard to the plot ratio (3.37), site coverage (78%) and proximity to the Luas, the overall bulk and massing would be acceptable;
- Overshadowing is not an issue with the proposed development and very limited views of the proposals would be available from the public realm;
- Proposed development would primarily be on the opposite side of the building to the neighbouring apartment block. Concerns raised in the third-party submission relating to noise and nuisance can be addressed via conditions;

#### 3.2.2. Other Technical Reports

- Engineering Department (Drainage Division) - no objection subject to conditions;
- Roads & Traffic Planning Division - no objection subject to conditions;
- Environmental Health (Air Quality Monitoring & Noise Control Unit) – recommends conditions to be attached.

### 3.3. Prescribed Bodies

- Transport Infrastructure Ireland (TII) – recommends Section 49 levy to be attached;
- National Transport Authority (NTA) – no response.

### 3.4. Third-Party Submission

- 3.4.1. One submission was received during consideration of the application from Thomas Hayes, Chair of the Board of Clarion Quay Management Ltd. The issues raised in this submission are addressed in the grounds of appeal.

## 4.0 Planning History

### 4.1. Subject Site

- An Bord Pleanála Ref. PL29N.300638 (Dublin City Council [DCC] Ref. 4073/17) – Third-party appeal lodged (January 2018) regarding retention permission for sign (c.6.6 sq.m) on the south elevation of the hotel;
- An Bord Pleanála Ref. PL29N.243371 (DCC Ref. WEB1031/14) – Permission refused (September 2014) for two signs to front of hotel, due to the visual impact on the Conservation Area;
- DCC Ref. 2115/14 – Permission refused (March 2014) for three signs to front of hotel at ground and roof level, due to the visual impact on the Conservation Area;
- DCC Ref. DD685 – Permission granted (January 2015) for individually-mounted letters to front of hotel;
- DCC Ref. DD370 – Permission granted (May 2006) for additional penthouse level to provide for 15 hotel rooms;
- DCC Ref. DD299 – Permission granted (February 2005) for single-storey extension in courtyard to rear of hotel to provide two conference rooms;
- DCC Ref. DD054 – Permission granted (March 1999) for hotel with 155 rooms.

### 4.2. Surrounding Sites

4.2.1. There is an extensive planning history associated with the adjoining and neighbouring sites, including the following:

- Hilton Garden Inn, Custom House Quay (ABP Ref. PL29N.245385 / DCC Ref. 2941/15) – Permission granted (December 2015) for extensions and additional floor to hotel;
- A&L Goodbody, 25-28 North Wall Quay (DCC Ref. 3364/16) – Permission granted (October 2016) for six-storey extension to rear of office block.

## 5.0 Policy Context

### 5.1. Development Plan

- 5.1.1. The appeal site has a zoning objective 'Z5 – City Centre' within the Dublin City Development Plan 2016-2022, where it is the stated objective 'to consolidate and facilitate the development of the central area, and to identify, reinforce, strengthen and protect its civic design character and dignity'. A hotel is a 'permitted' use on lands zoned 'Z5'. The primary purpose of zone 'Z5' is to sustain life within the centre of the city through intensive mixed-use development. The strategy is to provide a dynamic mix of uses that interact with each other and to help create a sense of community, which sustain the vitality of the inner city both by day and night. The appeal site is adjacent to the North Lotts and Grand Canal Dock Strategic Development Zone.
- 5.1.2. The front half of the site is located within a Conservation Area that includes buildings fronting onto the north Quays. Chapter 11 of the Plan notes under policy CHC4 that development in such areas should contribute positively towards the character and distinctiveness of the area.
- 5.1.3. Section 6.5.3 of the Plan refers to 'tourism and visitors', and notes that it is important to continue to develop tourism infrastructure such as visitor accommodation of various types. Relevant policies include:
- CEE12 (i) seeks to promote and facilitate tourism, as one of the key economic pillars of the city's economy and a major generator of employment, and to support the provision of necessary significant increase in facilities such as hotels;
  - CEE13 (iii) seeks to promote and support the development of additional tourism accommodation at appropriate locations.
- 5.1.4. Other relevant sections of the Development Plan include:
- Section 16.2 – Design Principles and Standards;
  - Section 16.5 – Plot Ratio;
  - Section 16.6 – Site Coverage;
  - Section 16.7 – Building Height in a Sustainable City;

- Section 16.29 – Restaurants;
- Section 16.32 - Night Clubs/Licensed Premises/Casinos/Private Members' Clubs.

5.1.5. Section 16.38 and Table 16.1 outline that a maximum of one car parking space per four hotel rooms is required in the city centre.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

6.1.1. The appellant states that the submission is being made on behalf of the board of directors of Clarion Quay Management Ltd., who are stated to manage the 189 apartments and 17 commercial units in the adjacent Clarion Quay development. The principal grounds of the third-party appeal can be summarised as follows:

#### Principle of the Development

- Proposed development would result in overdevelopment of the site, would not be sustainable and would not complement neighbouring residential areas;
- Conditions would be required to reflect the residential area and conservation status;

#### Impact on the Residential Amenities

- Smoking areas for staff and guests would be displaced by the subject proposals and it would be important that patrons do not use Excise Walk as an alternative. There has been no consultation with neighbours on this issue and arising from the proposals, it is assumed that smoking would take place along Excise Walk;
- Noise along Excise Walk from the hotel was problematic in the area until 2009 and since then the area has become more conducive to family-living following measures undertaken by the hotel operators;
- Proposals would breach the Dublin Agglomeration Environmental Noise Action Plan. Noise reduction measures are needed along Excise Walk to reduce noise spilling into the adjacent residential area;



- A construction method statement would be needed, to include suggested working hours, a traffic management plan, delivery proposals and a dedicated liaison person;

#### Traffic Safety

- The proposed development may lead to increased parking demand. The Spencer Hotel does not have its own parking spaces and rents parking spaces from the Clarion Quay development;
- Parking congestion is an issue on Alderman Way on the northside of the hotel;

#### Other Matters

- Queries regarding the redline and blueline boundaries detailed on the plans submitted, land ownership and legal consents to apply for permission;
- Lands within the vicinity are in control of the Planning Authority and the area subject of the extension works may not be in the ownership of the applicant;
- Concerns raised regarding street furniture, canopy details, societal example set by smoking and drinking along Excise Walk, potential for parties, works undertaken without planning permission, signage, drainage problems in the area, waste management, flooding and a lack of consultation.

The appeal includes a number of photographs of the hotel facilities at various times.

### **6.2. Planning Authority Response**

- 6.2.1. The Planning Authority responded to the grounds of appeal stating that the Planning Officer's report comprehensively deals with the issues raised and justifies their decision.

### **6.3. Observation**

- 6.3.1. One observation was received from TII, referring the Board to the content of their planning application submission to the Planning Authority.

### **6.4. Applicant's Response**

- 6.4.1. A response to the grounds of appeal was submitted on behalf of the applicant, and this raised the following:

- Appeal features extensive repetition, while much of the matters raised are either inaccurate or not relevant to planning;
- Proposals would assist in meeting objectives of the City Development Plan and would not impact on the character and setting of the Conservation Area;
- Reference to recent precedent decisions by An Bord Pleanála for similar hotel extensions (ABP Ref. PL29N.245385 – Hilton Garden Inn, Custom House Quay and ABP PL29S.246976 - Hilton Charlemont), which were granted despite being more contentious than the subject proposals from a planning perspective;
- Appellant fails to address how the proposed development (replacement conference rooms and additional hotel rooms) would conflict with land-use zoning objectives;
- Proposed development would not impact on Excise Walk and the area referenced by the appellant as being used as a smoking area would remain;
- Drawings submitted are accurate and include details required for regulatory purposes and the applicant is satisfied that they have legal control of the lands detailed;
- Plot ratio, site coverage and building heights are compliant with Development Plan standards and the proposed development would not be out-of-character with the area, as recognised in decision of the Planning Authority;
- Applicant refers to conditions of the permission, which require a construction management plan to be submitted to include construction working hours;
- For various reasons, issues relating to fire safety, waste management, drainage and consultation are not relevant or have been addressed in the application;
- There are no valid grounds for the appeal, consequently, the appeal should be dismissed under Section 138(1)(a)(i) of the Planning and Development Act 2000, as amended.

## **7.0 Assessment**

### **7.1. Introduction**

7.1.1. I note that in the applicant's response to the grounds of appeal, they request that the appeal be dismissed, as in their opinion there are no valid grounds for the appeal. I have examined the appeal submission and while I note that some of the issues raised are not entirely relevant to planning, I am of the opinion that the grounds of appeal do raise valid planning issues requiring assessment at appeal stage. Therefore, I would not recommend that the Board dismiss the appeal, as there are valid planning grounds for the appeal.

7.1.2. Consequently, I consider the substantive planning issues arising from the grounds of appeal and in assessing the proposed development are as follows:

- Principle of the Development;
- Impact on Residential Amenities;
- Impact on Visual Amenities;
- Traffic, Parking and Servicing;
- Other Matters.

### **7.2. Principle of the Development**

7.2.1. Under the provisions of the Dublin City Development Plan 2016-2022, the appeal site is zoned 'Z5 - City Centre' and is subject to an objective 'to consolidate and facilitate the development of the central area, and to identify, reinforce, strengthen and protect its civic design character and dignity'. The Development Plan states that the primary purpose of this zone is to sustain life within the city centre through intensive mixed-use development. Hotel uses are permissible under this land-use zoning objective. The proposed development would add an additional 40 hotel guest rooms to the tourist accommodation for the city. Consequently, Development Plan policies CEE12(i) and CEE13(iii), seeking to continue to develop tourism infrastructure such as visitor accommodation of various types, is supported by the subject proposals. The immediate area comprises an expansive mix of uses, including residential, educational, office and retail uses. Overall, I consider the

principle of the proposed development to be acceptable, subject to assessment of the relevant planning and environmental considerations identified below.

### **7.3. Impact on Residential Amenities**

- 7.3.1. The appeal site is within the north docks area of the city centre, an area characterised by urban blocks containing large office buildings, refurbished dockland buildings, conference and hotel facilities, all interspersed with residential apartment complexes that often comprise commercial uses opening onto the street. On the opposite side of Excise Walk and to the west of the subject hotel is Clarion Quay development, comprising ground-floor commercial units with apartments above. There are no other residential buildings within the immediate area. The Spencer hotel features restaurant and licensed areas at ground floor, with external seating along Excise Walk. The neighbouring café (Café Nero) and restaurant (Milano) on Excise Walk also feature external seating areas.
- 7.3.2. In representing the interests of the Clarion Quay development, the grounds of appeal primarily focus on the potential impact of the proposed development on neighbouring residential amenities. The main issue raised within the appeal would appear to relate to the loss of the dedicated external smoking area within the hotel courtyard space. The grounds of appeal assert that an alternative smoking area would be required for hotel patrons, should the development be permitted, and that this would invariably take place along Excise Walk. The appellant contends that this would create significant noise nuisance for the residents of Clarion Quay. In response to this, the applicant highlights that the proposed development would not impact on Excise Walk and the smoking area referenced by the appellant would remain following the proposed development. While I note that the proposed works would take place on the eastern side of the hotel away from Excise Walk, the proposed development would add 40 rooms to the hotel, thereby intensifying the use of the hotel. Furthermore, it would be likely that the current smoking areas would not be in use during the construction phase of the project.
- 7.3.3. As per the requirements set out in Sections 16.29 and 16.32 of the Development Plan, it is vital that noise and other emissions from the hotel's licensed and restaurant areas are controlled to avoid undue impacts on neighbouring residential amenities. To address concerns relating to noise from the hotel, the Planning

Authority attached conditions to control noise emissions and noise levels, and I consider such conditions would be reasonable to attach in the event of a grant of permission. I also note that the applicant has not appealed these conditions. The current smoking area would not be available during the construction phase, but it would be possible to reuse this space following completion of the proposed development. Taking into consideration the temporary nature of the construction works, the city centre location, including current noise levels from evening uses onto Excise Walk and restrictive measures via conditions to a planning permission, I do not consider that neighbouring residential amenities would be adversely impacted by the subject proposals and any material change in ambient noise levels would be likely to be minimal and temporary in nature.

- 7.3.4. In conclusion, I consider that the proposed extension to the hotel would not detrimentally impact on the amenities of neighbouring properties in the vicinity, and, accordingly, I recommend that permission should not be refused on the basis of the impact of the proposals on residential amenities.

#### **7.4. Impact on Visual Amenities**

- 7.4.1. The grounds of appeal assert that the proposed development would have a negative impact on the status of the Conservation Area along the North Quays. The proposed works associated with the development would almost entirely involve extension works within an internal courtyard space that is shared with the adjoining office block to the east. The frontage to the property is located within a Conservation Area and the applicant submitted a set of photomontages with the application to illustrate the potential visual impact of the proposed development along the North Quays. Considering the location of the proposed extensions and the minor extent of the elevational changes along the Quays, which would have an imperceptible impact on the character of the Conservation Area, I am satisfied that this aspect of the proposals would not have a significant impact on the visual amenities of the area. The proposed development would not detract from the character or setting of the area, including the Conservation Area, therefore, I recommend that permission should not be refused on the basis of the impact of the proposals on visual amenities.

## **7.5. Traffic, Parking & Servicing**

The grounds of appeal assert that difficulties would arise for car parking and servicing should the development proceed. The site is highly accessible by all transport modes, including the Luas, and does not make provision for car-based access. The proposed development provides for six additional bicycle parking spaces. The Roads and Traffic Planning Division of Dublin City Council and TII have both reported on the subject application, outlining that, subject to conditions, they do not object to the development. Considering these reports, the city centre location and the use of maximum car parking standards in the Development Plan, I am satisfied that there would not be a necessity to provide additional car parking spaces to serve the extended hotel. Furthermore, current servicing arrangements, including waste management, would not need to be extensively amended as a result of the proposed development. Measures to allow for the free-flow of vehicular traffic and pedestrians during the construction phase should be submitted to and agreed with the Planning Authority, as part of a Construction Management Plan. In conclusion, the proposed development would be adequately provided for in terms of parking and servicing arrangements and would not create traffic safety problems, accordingly, the proposed development should not be refused permission for this reason.

## **7.6. Other Matters**

- 7.6.1. Issues raised in the grounds of appeal regarding legal boundaries are a civil matter, which lie outside the Board's role and I do not propose to adjudicate on this issue. I note here the provisions of Section 34(13) of the Planning and Development Act 2000, as amended, and Chapter 5.13 of the 'Development Management – Guidelines for Planning Authorities' (June 2007), titled 'Issues relating to title of land'.
- 7.6.2. The grounds of appeal query whether aspects of the existing development on site have been undertaken without planning permission. Breach of planning conditions and/or unauthorised development would be an enforcement matter for the Planning Authority.

## 8.0 **Appropriate Assessment**

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

## 9.0 **Recommendation**

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

## 10.0 **Reasons and Considerations**

- 10.1.1. Having regard to the 'Z5 –city centre' zoning, the nature and scale of the proposed development, involving works on the east side internal courtyard, the existing pattern of development in the vicinity, the city centre location and policies CEE12(i) and CEE13(iii) of the Dublin City Development Plan 2016-2022, which seek to continue to develop tourism infrastructure such as visitor accommodation in the city, it is considered that subject to compliance with the conditions below, the proposed development would not seriously injure the residential or visual amenities of the area or of property in the vicinity, would be in accordance with the provisions of the Dublin City Development Plan 2016-2022, would not detract from the character or setting of the Conservation Area and would be acceptable in terms of traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 11.0 **Conditions**

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning

authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

**Reason:** In the interest of clarity.

2. Notwithstanding the provisions of the Planning and Development Regulations 2001, or any statutory provision amending or replacing them, no additional development including lift motor enclosures, air handling equipment, storage tanks, ducts or other external plant, telecommunication aerials, antennas or associated equipment, shall take place above roof level other than as indicated on the submitted drawings unless authorised by a further grant of planning permission.

**Reason:** In the interest of visual amenity.

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

**Reason:** In the interest of visual amenity.

4. Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

**Reason:** In the interest of public health and to ensure a proper standard of development.



5. (a) Amplified music or other specific entertainment noise emissions from the premises shall not exceed the background noise level by more than 3 dB(A) during the period 0800 to 2200 hours and by more than 1 dB(A) at any other time, when measured at any external position adjoining an occupied dwelling in the vicinity. The background noise level shall be taken as L90 and the specific noise shall be measured at LAeq.T.
- (b) The octave band centre frequencies of noise emissions at 63 Hz and at 125 Hz shall be subject to the same locational and decibel exceedance criteria in relation to background noise levels as set out in (a) above. The background noise levels shall be measured at LAeqT.
- (c) The background noise levels shall be measured in the absence of the specific noise, on days and at times when the specific noise source would normally be operating; either:
- (i) during a temporary shutdown of the specific noise source, or
  - (ii) during a period immediately before or after the specific noise source operates.
- (d) When measuring the specific noise, the time (T) shall be any five minute period during which the sound emission from the premises is at its maximum level.
- (e) Any measuring instrument shall be precision grade.

Detailed plans and particulars indicating sound-proofing or other measures to ensure compliance with this condition shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. An acoustical analysis shall be included with this submission to the Planning Authority.

**Reason:** In order to protect the amenities of residential property in the vicinity having particular regard to the nuisance potential of low frequency sound emissions during night-time hours.

6. Construction and demolition waste shall be managed in accordance with a

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

**Reason:** In the interest of sustainable waste management.

7. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the Planning Authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including:
  - (a) Location of the site offices and materials compound, including area identified for the storage of construction refuse;
  - (b) Details of scaffolding and hoardings;
  - (c) Details of car parking facilities for site workers during the course of construction;
  - (d) Details of the timing and routing of construction traffic to and from the construction site and associated directional signage, to include proposals to facilitate the delivery of abnormal loads to the site;
  - (e) Measures to obviate queuing of construction traffic on the adjoining road network;
  - (f) Measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network;
  - (g) Details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels;A record of daily checks that the works are being undertaken in accordance with the Construction Management Plan shall be kept for inspection by the

planning authority.

Reason: In the interest of amenities, public health and safety.

8. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the Planning Authority that is provided or intended to be provided by or on behalf of the Authority, in accordance with the terms of the Development Contribution Scheme made under Section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the Planning Authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the Planning Authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

**Reason:** It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under Section 48 of the Act be applied to the permission.

9. The developer shall pay to the planning authority a financial contribution in respect of the Luas Cross City Project, in accordance with the terms of the Supplementary Development Contribution Scheme made by the Planning Authority under Section 49 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the Planning Authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to

An Bord Pleanála to determine the proper application of the terms of the Scheme.

**Reason:** It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Supplementary Development Contribution Scheme made under Section 49 of the Act be applied to the permission.

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Colm McLoughlin  
Planning Inspector

21<sup>st</sup> February 2018