



An
Bord
Pleanála

Inspector's Report ABP-300241-17

Development Permission and retention for development at a site of 0.969 ha development consists of the part demolition of existing structures on the site and the construction of an extension to the existing Phibsborough Shopping Centre onto Phibsborough Road and North Circular Road ranging in height from 3 to 7 storeys to contain new retail / restaurant and office units, student accommodation, a new civic plaza and an upgrade of the existing Shopping Centre and commercial office tower facade with a total new build gross floor area of 15,775m² (including basement).

The proposed application does not include Units 7 and 13-15 & 17 of the existing Shopping Centre.

Location Phibsborough Shopping Centre and 345-349 North Circular Road, Dublin 7

Planning Authority	Dublin City Council (North Area)
Planning Authority Reg. Ref.	2628/17
Applicant(s)	Phibsborough Shopping Centre Ltd
Type of Application	Permission
Planning Authority Decision	GRANT with conditions

Type of Appeal	2no. Third Party
Appellant(s)	Phizzfest; Tesco Ireland Ltd.
Observer(s)	Anne Gannon; Mary Fitzpatrick; Marie Sherlock; Councillor Cieran Perry; Des Gunning; and Garda Representative Association and others.
Date of Site Inspection	11/04/18, 30/04/18 and 02/05/18
Inspector	John Desmond

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1.0 Site Location and Description

- 1.1. The application relates to the majority of the Phibsboro Shopping Centre site, with additional lands to the west - comprising the east stand of Dalymount Park (and ancillary structures, surface parking, access and overgrown area; to the south - a car mechanic's premises (former Des Kelly Carpets' premises within amended historic tram yard warehouse) and surface parking area and hard surface access route to North Circular Street; and to the centre and southeast – surface parking and hard surface access routes. The proposed application site does not include Units 7, 13-15 and 17 of the existing shopping centre.
- 1.2. The application site is located at the centre of Phibsborough village in north Dublin City, c.1.2km northeast of O'Connell Street and c.220m south of the Royal Canal, close to the junction of the Phibsborough Road (R135, former N2) and North Circular Road (R147, former N3) known as Doyle's Corner. The Mater Hospital and Mount Joy Prison are located c.250m and c.170m, respectively, east of the site.
- 1.3. The area is an historic suburban area, dating predominantly from the Victorian period and is strongly characterised by distinctive redbrick terraced dwellings. There has been infill and replacement development central to the village area, either side of Phibsborough Road, with Phibsboro Shopping Centre and office block (c.1967) being the most obvious of these by reason of the height of office tower, juxtaposed with the single and 2-storey horizontally emphasized shopping centre, and the distinctive architectural design that so defined that period of economic growth.
- 1.4. The application site extends almost to 1ha (0.969ha stated area), comprising the majority of Phibsborough Shopping Centre and office block, but excluding retail units nos.7, 13-15 and 17. The shopping centre comprises a single-storey row of retail units (opening directly onto the air), with podium level parking at open first floor level, a 2-storey section at the northern end and a tower block of 8-stories (6-stories office above ground floor retail and first floor podium parking level) located towards the northern end. The building is constructed from pre-cast, vertically-emphasized concrete panels with a pebbled-surface. The shopping centre is setback from the street behind a parking forecourt in a suburban manner, with a vehicular entrance

from Phibsborough Road and an exit onto Connaught Street and a number of formal and informal pedestrian entrances. The podium level parking is accessed from a mews-type lane off Connaught Street.

- 1.5. The site has frontage onto the North Circular Road to the south, extending to c.24m between Dalymount Terrace to the west and no.351 North Circular Road to the east; frontage of c.143m to Phibsborough between no.70/71 to the south and Connaught Street to the north; and frontage of c.40m to Connaught Street to the north.
- 1.6. The roadside boundary to the north and east comprises a low painted-brick wall, except where replaced with removable bollards along part of Phibsborough Road, apparently to facilitate service deliveries for Tesco. There is a vehicular access at the southern end off Phibsborough Road, adjacent the shopping centre forecourt entrance, providing access to a service lane to the rear of the retail units, to a separate surface car parking area, to Dalymount Park and an indirect connection (controlled by gates) to North Circular Road via the Kelly's. And adjacent the south of the said access, there is another service access providing access to a gated service lane and ESB substation via a ramp.
- 1.7. To the southeast the site abuts the historic village core, largely characterised by 2-storey, redbrick-faced buildings dating probably from the Victorian period. To the southwest and northwest, the neighbouring properties are 2-storey Victorian period, suburban residential dwellings. To the west, the site abuts (and includes part of) Dalymount Park soccer stadium, which is abutted by mews lanes, including Dalymount Lane (apparently a public lane) to the south and the partly-gated off-Connaught Street lane to the north.

2.0 Proposed Development

- 2.1. The proposed development comprises as follows:
 - Part demolition of structures on site (total 2,613-sq.m), including east stand Dalymount Park football stadium (1,557-sq.m), existing warehousing in Kelly's yard and part of Unit 1 Phibsboro Shopping Centre, and ancillary site clearance;

- Construction of extension to Phibsborough Shopping Centre from 3-storeys to 7-storeys in height for retail, restaurant/cafe and office units, student accommodation of 15,775-sq.m addition gross floor area (inclusive of basement):
 - Student accommodation of 341no. bed-spaces, 10,959-sq.m GFA, in two blocks ranging 4-6-storeys over ground and/or first floor levels (part split levels);
 - Split level ground / first floor accommodates management offices and reception, student amenity space, storage, circulation areas;
 - Split level basement accommodates 172no. bicycle parking spaces, cinema room, bin storage, laundry and plant;
 - Ground and first floor accommodates 2no. retail / café / restaurant units with 1037-sq.m and 658-sq.m GFA facing onto the northern side of the civic space
- 3-4-storey buildings to North Circular Road, accommodating 3no. ground and first floor units (retail / café / restaurant units) of 502-sq.m, 430-sq.m and 366-sq.m GFA; and office accommodation of 1367-sq.m at second and third floor level;
- Civic plaza linking Phibsborough Road and North Circular Road and facilitating access to Dalymount Park site;
- Upgrade and alterations to existing shopping centre and commercial office tower façade:
 - New façade of expanded metal mesh covering Phibsborough Road and Connaught Street frontage to shopping centre and tower building;
 - New façade of expanded metal mesh covering over roof of the tower building to screen re-organised arrangement of existing antennae;
 - Upgrade shopfront and signage to all existing units;
 - Upgrade surface treatment, landscaping and boundary treatment to existing car parking and walkways within the site;

- Part demolition of unit 1 and amalgamation of unit 1 with unit 2 for change of use to retail / restaurant;
- Provision of new service yard to serve redeveloped shopping centre to rear, accessed via Connaught Street;
- Hard and soft landscaping, boundary treatments, signage and all ancillary site and development works;
- And **RETENTION** of gym use in unit 19 at first floor level;

2.2. The proposed development, as **AMENDED** by Further Information submission (29/09/17), consists:

- Basement level – reduced by c.80-sq.m with reorganisation of plant rooms, relocation of gym (c.100-sq.m, with reduction in GFA of c.10-sq.m) from ground, and omission of cinema and omission of bin store (c.70-sq.m) and related service elevator;
- Ground level
 - increase in service delivery yard access from lane off Connaught Street (from c.560-sq.m to close to 740-sq.m);
 - provision of new standalone ESB substation and 2no. switch rooms adjacent proposed west lane (north of service yard) in lieu of integrated structure (south of service yard); provision of integrated bin store;
 - Relocation of student gym / yoga from ground floor to basement; increase in student common area through annexing space from unit A2 and omission of multi-purpose rooms;
 - Reduction in unit A2 GFA by c.175-sq.m and change proposed use from retail to restaurant/café; increase in unit A1 GFA by c.40-sq.m; change of proposed used of units A4 and A5 from retail to restaurant / café;
- First floor level - revised student accommodation to 69no. units containing 334no. bed-spaces;
- Revised student amenities / facilities space at first floor level over unit A2, with access over units A1;

- Removal of most (c.360-sq.m) of first floor level of unit A1;
- Provision of new first floor level to unit A2 of c.140-sq.m and change of proposed use from retail to restaurant / café;
- Change of proposed use of units A4 and A5 from retail to restaurant / café.

2.3. Supporting Documentation

1. *Planning Report (Telecommunications Report as Appendix 2)* prepared by Brady Shipman Martin
2. *Architectural Design Report* prepared by Donnelly Turpin Architects
3. *Accurate Visual Representations [Photomontages/CGIs]* prepared by Digital Dimensions
4. *Landscape Planning Report* prepared by Hyland Edgar Driver
5. *Pedestrian Comfort Wind Study* prepared by K8T
6. *Daylight and Sunlight Report* prepared by Brady Shipman Martin
7. *Student Accommodation Management Plan* prepared by CRM
8. *Student Accommodation Supply and Demand Report* prepared by Savills
9. *Transportation Assessment & Preliminary MMP* prepared by NRB Consulting Engineers
10. *Planning Submission Drainage* prepared by JJ Campbell & Asso.
11. *Construction Management Plan* prepared by JJ Campbell & Associates
12. *Operational Waste Management Plan* prepared by AWN Consulting
13. *Appropriate Assessment Screening Report* prepared by Brady Shipman Martin

2.4. Further Information Supporting Documentation

14. *Proposed Over-Cladding*, prepared by Donnelly Turpin Architects
15. *Quantum of Student Recreational Facilities Document*, prepared by Donnelly Turpin Architects

16. *Sustainability Report*, prepared by Metec Consulting Engineers

17. *Signage Strategy*, prepared by Detail Design Studio.

18. *CD Response to Request for Further Information*

3.0 **Planning Authority Decision**

3.1. **Decision**

To **GRANT** permission subject to 24no. conditions. Conditions of note:

No.3 - S.49 supplementary contribution for Luas Cross City Scheme €500,156.00.

No.4 - Limits use to use as student accommodation during academic term and to tourist / visitor accommodation at other times.

No.5 & 6 - External finishes and mesh to be subject of agreement.

No.7 - Facilitation of ongoing use of Dalymount Park during construction and operational phases to be subject of agreement, including (vi) provision of articulated truck access including turning circle.

No.9 - Height of banners to North Circular Road limited to 4m and location to be subject of agreement.

No.10 - Road design and transport related issues: (i) requires footpath to North Circular Road to continue at a raised level across the proposed vehicular access point; (iii) agreement of reservation line to Phibsborough Road for future bus network improvements.

No.13 – Archaeology & historic building requirements.

3.2. **Planning Authority Reports**

3.2.1. **Planning Reports**

The Council's Planning Officer produced two very detailed and thorough reports.

The first report (29/05/17) is consistent with the Planning Authority's decision to seek further information on 13no. points. These related to: (1) compliance with s.16.10.7 of the CDP and PL8/2016 concerning student accommodation; (2) visual impact of southern face of southern block; (3) clarity on ground floor uses (in context of

evening economy); (4) compliance with BRE; (5) residential amenity of rooms onto communal open space; (6) shortfall in recreational facilities and communal space contrary to s.16.10.7 of CDP; (7) excessive sized units vis a vis requirements of s.16.10.7 of CDP; (8) 3-bed cluster non-compliant re 55-sq.m standard under s.16.10.7 of CDP; (9) coherent signage strategy required; (10) clarity regarding obscure glazing to S & E elevations to block A and C, respectively, overlooking North Circular Road terrace; (11) examples of similar design approach to tower; (12) details of civic plaza; (13) energy efficiency details in compliance with CDP policy.

3.2.2. Other Technical Reports

City Archaeologist: No objection subject to standard-type condition requiring archaeological investigation to be carried out prior to commencement of development (02/05/17).

Culture Recreational & Economic Services Department: The second report of the Project Manager for Dalymount Park Project (23/10/17) reiterates concerns raised in the first report (23/05/17) indicated that there are outstanding concerns, including some construction details (relocation of floodlights) practical operational issues during construction and operation including access to DCC water pump and ESB substation, and design issues including access from North Circular Road and egress to Connaught Street by articulated trucks and potential for code non-compliance due to the stepped nature of the plaza given the numbers (c.7000 people) exiting the stadium via this exit.

Drainage Division: The report of 25/04/17 (no change in report of 13/10/17 receipt of further information) raised no objection subject to standard condition.

Roads Planning Division: The report of 19/05/17 raises no objection subject to generally standard type conditions in addition to a condition requiring the applicant to agree in writing the reservation line along Phibsborough Road in order to provide future improvements to the bus network.

Waste Management Division: The report of 08/05/17 indicates no objection subject to an extensive list of standard type conditions addressing demolition, construction and operational activities.

3.3. Prescribed Bodies

Irish Water: Report of 25/04/17 raised no objection subject to standard conditions.

3.4. Third Party Observations

16no. observations were received to the application from: Michael Mac Donnchadha (Convent Avenue, Fairview), Francis Ludlow (Connaught Street, Phibsborough), Cathal McGeown (Halliday Square, D7), Pat Marshall (North Circular Road, D7), David Slattery (Shandon Drive, D7), Phizzfest (c/o Tina Robinson, Shandon Gardens, D7), Tesco Ireland Ltd (c/o GVA, Earlsfort Terrace), Mary Fitzpatrick (Fianna Fail), Councillor Ray McAdam (North Circular Road, D7), Great Western Square and District Residents' Association (c/o Eugene Langan, GW Avenue, D7), Peter Murray (Shandon Park, D7), Ann Gannon (Broadstone, D7), Bohemian Football Club (c/o Daniel Lambert, Strategic Planning), Susan Dawson (Munster Street, D7), Councillor Ciarán Cuffe (Green), Joe and Emer Costello (Aughrim Street, D7), Councillor Cieran Perry (Independent).

The issues raised are generally repeated in the grounds of appeal, with many observers welcoming the proposed development in principle but with concerns about details of the proposal, but with some requesting permission be refused. The detailed points are generally encompassed within the grounds of appeal and are summarised in the appropriate section below, but the broad issues raised in the observations fall within the following areas (note, I have included the detailed submission from Bohemian FC):

- Absence of a statutory LAP or a master plan to guide the coordinated development of the landbank inclusive of Dalymount Park.
- Pedestrian, cyclist and wheelchair accessibility through the site, including design of existing and proposed civic space and street / lane.
- Servicing of commercial development with deliveries.
- Excessive student housing, absence of residential housing for families, non-adaptable units.
- Loss of heritage (tram yard)

- Lack of community gain.
- Need for liaison with community during construction / operational.
- Management of student housing.
- Traffic impact.
- Bohemian FC – the civic space has potential to provide real community benefit, as well as providing a main access point to the redeveloped stadium. The club urges maximum connectivity between the two sites, including signage to highlight the new main entranceway. The civic plaza should recognise and celebrate the role of Dalymount Park to Ireland's sporting / cultural history. Supports the cycle path proposal to link North Circular Road and Connaught Street alluded to. Strongly urges for concurrent development of the Dalymount and the application site to allow for economies of scale and maximum design connectivity and to minimise construction time / interruption.

4.0 Planning History

4.1. On site:

Reg.ref.2709/17: Permission **GRANTED** by the Planning Authority (18/07/17) for permission for part demolition of existing structures, site clearance and associated boundary hoarding, including the existing Tramway End/ East Terrace of Dalymount Stadium (excluding the area of the existing floodlights), the existing warehouses in Kelly's Yard off the North Circular Road and other ancillary site clearance.

PL29N.240504 / Reg.ref.2132: Permission **GRANTED** by the Board (26/10/12), limited to a **5-year permission** from the date of decision by condition no.2, for retention of antennas, link dishes and equipment container previously granted permission under reg. ref. 1027/96. The Inspector's Report equipment referred to in the following specific items of equipment (22no. in total):

- The provision of 3no. 300 millimetre diameter link dishes and a galvanised support pole bolted to the roof near the rear (western elevation) of the building.

- The retention of 2no. 300 millimetres and 1 no. 600 millimetres diameter link dishes attached to the southern side of the boiler house at roof level near the western elevation.
- The retention of 1no. 1.3m long antennae attached to the western elevation of the boiler house.
- The retention of 1no. 600 millimetre link dish and 1no. 1.9m long antennae attached to the western elevation of the boiler house.
- The retention of 2no. 600 millimetre and 1 no. 300 millimetre link dish attached to the northern side of the boiler house at roof level.
- The retention of 1no. 1.9 metre antennae at the north-eastern corner of the building at 6th floor level.

On the eastern façade of the building fronting onto the Phibsborough Road the retention of the following is sought: -

- The retention of 2no. 300 millimetre and 1 no. 600 millimetre mounted dishes attached to the west-facing side of the southernmost part of the building adjacent to the Phibsborough Road.
- The retention of a 1no. O2 antenna bolted onto the front elevation of the building at level 8 overlooking the Phibsborough Road.
- The retention of 2no. antennae on the southern elevation of the seventh floor.
- The retention of 2no. 1.9m long antennae on the southern elevation of the sixth floor.
- The retention of 1no. antennae attached to the front façade of the office block at first floor level.

PL29N.211686 / reg.ref.2545/04: Permission **GRANTED** by the Board (09/01/06) for the regeneration and extension of the Phibsboro Centre (1.23ha site) to provide mixed use commercial and residential development including retail units, gym, medical centre and 122 no. apartments (a number of apartments were omitted by condition).

4.2. Wider vicinity (within 1km):

Reg.ref.2838/15: Permission **GRANTED** (final grant 26/08/15) by the planning authority for the development of student accommodation - 108no. bedspaces proposed, but 2no. spaces omitted and a storey omitted from part of development, therefore the total number of bedspaces not clear -at 104A, Part 105-106 & 107-115, Dorset Street Upper, & 65-70 Wellington Street, Dublin 1 (within c.800m of proposed student accommodation).

PL29N.246780 / Reg.ref.2383/16: Permission **REFUSED** (09/01/17) by the Board for internal alterations to existing building to provide an additional 11no. bedrooms of student accommodation, plus signage, for a single reason relating to consequential serious injury of the amenity of residents / future residents, and serious injury of visual amenities of the property and area. Site at Broadstone Hall, 244 Phibsborough Road, Constitution Hill, Dublin (within c.700m of proposed student accommodation). Total number of existing number bedspaces not clear.

Reg.ref.2038/17: Permission **GRANTED** (Final Grant 15/02/17) by the planning authority for construction of district shopping centre with student residential accommodation overhead the district centre buildings (15no. student houses accommodating 105 no. student residential units and 541 bedspaces) in two buildings ranging from 2 to 6 stories over ground floor commercial north side and 4 to 6 stories over ground floor commercial Park Shopping Centre. The scheme was amended by further information response with a reduction from 6 to 5 stories but it is not clear how this affected the number of bedspaces proposed. At 42-45 Prussia Street, Dublin 7 (c.1km from proposed student accommodation).

Reg.ref.2080/17: Permission **GRANTED** (Final Grant 22/02/17) by the planning authority for 243no. bedspace student accommodation (reduced from 247no. by further information response) at 58-64 Dominick Street Upper (plus adjacent car park), Dublin 7 (c.900m from proposed student accommodation).

Reg.ref.4341/16: Permission **GRANTED** (Final Grant 12/07/17) by the planning authority for 77no. bedspaces in 27no. clusters including 13 no. studios, at 25-27 Dominick Street Upper, Dublin 7 (c.800m from proposed student accommodation).

PL29N/248726 / Reg.ref.4262/16: Permission **GRANTED** (01/11/17) by the Board for a 429-bedspace student accommodation development (reduced from 444no. by

further information response) at no.274 North Circular Road, Dublin 7 (within 400m of proposed student accommodation).

5.0 Policy Context

5.1. Development Plan

Dublin City Development Plan 2016-2022 (as varied)

Land use zoning objective – Z4 *‘To provide for and improve mixed-services facilities’.*

Within key district centres, general development principles *shall* apply concerning, *inter alia*: population, density, transport, commercial / retail, community and social services, employment, built environment, and capacity for development.

Chapter 2 Vision and Core Strategy

S.2.2.8.1 Area Specific Plans: Table F – Schedule of Proposed Statutory LAPs (the order of delivery of the LAPs to be determined by City Councillors) – No.5 Phibsborough LAP

Chapter 5 Quality Housing

S.5.3 Challenges: *It is important that the city has housing that is affordable and attractive to all who want to live in the city, including [inter alia]: ... adaptable and flexible units that readily provide for changing needs over time including the needs of families with children; ... the City Council will ...recognise and facilitate, where appropriate, distinct components which are developing within the housing market such as: ... student accommodation... .*

S.5.5.12 Student Accommodation: [recognises the] *need for appropriately located high quality, purpose-built and professionally managed student housing schemes [in the context of planning] for future expansion of third-level institutions and to accommodate growth in the international education sector. QH31 - To support the provision of high-quality, professionally managed and purpose built third-level student accommodation on campuses or in appropriate locations close to the main campus, in the inner city or adjacent to high-quality public transport corridors and*

cycle routes, in a manner which respects the residential amenity and character of the surrounding area, in order to support the knowledge economy. Proposals for student accommodation shall comply with the 'Guidelines for Student Accommodation' contained in the development standards.

Chapter 6 City Economy & Enterprise

Objective CEE19: *(i) To promote Dublin as an international education centre/student city, ... and to support and encourage provision of necessary infrastructure such as ... high quality, custom-built and professionally managed student housing. (ii) To recognise that there is a need for significant extra high-quality, professionally-managed student accommodation developments in the city; and to facilitate the high-quality provision of such facilities.*

Chapter 10 Green Infrastructure, Open Space & Recreation

Objective GIO38: *To redevelop Dalymount Park soccer stadium providing enhanced sporting recreational and community amenities and as part of this development to celebrate the rich sporting history of this site.*

Chapter 12 Sustainable Communities and Neighbourhoods

Policy SN29 *'To promote built environments and outdoor shared spaces which are accessible to all. New developments must be in accordance with the principles of Universal Design, the City Development Plan's Access For All Standards, and the National Disability Authority's 'Building For Everyone'.*

Chapter 16 Development Management Standards

16.7.2 Height Limits and Areas for Low-Rise, Mid-Rise and Taller Development*
(table 'Building Height in Dublin'; Map K).

S.16.10.3 Residential Quality Standards – Apartments and houses: Safety and Security.

S.16.10.7 Guidelines for Student Accommodation (varied by Variation No.3).

S.16.23 Shopping Centres

Appendix 3 Retail Strategy: District Centres - Level 3; - Older Centres

Appendix 14 Safety and Security Design Guidelines

Appendix 15 Access for All

Appendix 10 Land-Use Definitions: Student Accommodation

5.2. Reference Documents

'Buildings for Everyone, A Universal Design Approach' (National Disability Association, 2012)

'Technical Guidance Document M - Access and Use' (commonly known as Part M) (DEH&LG, 2010)

5.3. Natural Heritage Designations

South Dublin Bay and River Tolka Estuary SPA site code 004026 c.3km to the east.

South Dublin Bay SAC site code 000210 c.5km to the southeast.

North Dublin Bay SAC site code 000206 c.6km to the east.

North Bull Island SPA site code 004006 c.6km to the east.

6.0 The Appeal

6.1. Grounds of Appeal

- 6.1.1. Grounds of **Third Party Appeal submitted by (Phizzfest)** c/o Tina Robinson, Susan Dawson (Phibsborough Village Tidy Towns), Eugene Langan (Great Western Square and District Residents Association), Joe and Emer Costello and Peter Murray:

- Welcomes and supports the proposed redevelopment of this strategic site as a significant step towards the transition from a traffic dominated deteriorating village to a people-centred high quality urban environment.

Co-ordination of development

- Concern regarding potential conflict of interest for Dublin City Council due to its interest in the redevelopment of the adjacent Dalymount Park site.

- In the absence of the simultaneous development of Dalymount Part will result in an incongruous and unfinished development.

Treatment of tower

- Inappropriate and unacceptable use of anodised mesh to semi-clad tower and antennae, which will be visually obtrusive on adjoining residences zoned Z2 reservation conservation area.
- Retention of 50-year old rusting single-glazed windows to tower.
- Due to the restrictions imposed by Tesco, it should be treated as a conservation project, with concrete panels cleaned and insulated, windows replaced (referring to example of 'The One Building', Grand Canal Street) and antennae concealed with suitable 'lid'; an 'interim' solution is not good enough for a development of this scale.
- Concern about mesh maintenance (and cleaning) issues, how it will affect the telecommunications technology, how it will perform in wind and the structural support structures required.
- The Board should attach a condition omitting the mesh design and requiring implementation of the conservation approach suggested above.

Visual urban design issues

- Adequate screening from public street view should be provided for both parking areas.

Mix of uses

- It should be a condition of planning that quality retail mix should be provided to reflect the needs of the community.
- Concern that the scale of student accommodation proposed could dictate the standard and type of retail, in the absence of a condition on retail quality.
- No mixed-use residential accommodation. Lack of community gain could be offset by providing a proportion of proposed accommodation units as family homes.

Accessibility

- Restrictions imposed by Tesco to ground floor and first floor parking areas restricting potential for provision of high-quality people-centred urban space.

- A condition should be attached to guarantee provision of promised pedestrian/cycle route with adequate lighting from Connaught Street to the Plaza and North Circular Road as part of the Dalymount Park redevelopment and its design brief.
- Must ensure that the entire site is disability proofed for wheelchair users and visually impaired.

Traffic management

- The addition of a new service yard accessed off Connaught Street will worsen the situation even if accessed off-peak.
- Cars exiting onto Connaught Street are allowed to turn right since removal of a 'no right turn' sign in recent years, and constitutes a major cause of traffic congestion, considerably slowing traffic turning right from Connaught Street to Phibsborough Road and blocks traffic turning left onto Connaught Street from Phibsborough Road.
- Considers s.4.14 of the Traffic Assessment assertion that the roof parking access has minimal and unnoticeable effect on the operation of the road local network to be inaccurate.
- Appendix B shows egressing vehicles turning right, compounding the problem.
- A condition should be attached requiring reinstatement of NRT onto Connaught Street, possible aided by traffic island.

Heritage

- As much as practicable of the remains of the tram yard should be salvaged, possibly re-used in the Civic Plaza, or incorporated into another architectural features on site, in the boundary wall with Dalymount Park or as part of a museum or arts centre of that redevelopment. Should be addressed by condition.
- Options for re-use and integration into the development of the floodlights of Dalymount Park, as an iconic part of the local skyline, should be required to be considered by way of condition.
- The redevelopment should be named 'The Tramyard' to reflect the site's heritage.

Community gain

- No community gain proposed.
- Contribution levies should be ringfenced for the area, perhaps to develop an arts' and cultural programme to aminate the Plaza.
- A liaison committee should be established, agreed by DCC and the developer with the local residents through their representative associations, concerning work hours, demolition works, removal of rubble, transport of material and construction traffic.
- The community should be involved in the naming of the redeveloped centre.

Other issues

- Energy efficiency, such as potential for solar should be addressed and included by condition.

6.1.2. Grounds of **Third Party Appeal submitted by Tesco Ireland Ltd** c/o GVA Planning and Regeneration Ltd:

- The PA decision did not adequately consider the appellant's concerns surrounding deliveries, access to the proposed development and proposals for works outside the redline boundaries without consent, and the application of some of the conditions is questionable.

Negative impact on viability of Tesco stores – service deliveries not facilitated

- Tesco owns their store and unit 7 (off license).
- Tesco, as the anchor store, of an important part of the attraction of the centre.
- The '*proposed development will not facilitate appropriate deliveries for Tesco Ireland*', with '*the current delivery method will be restricted by the changes...proposed*' and '*the only option for any delivery will be to the proposed rear service yard*'.
- The rear service yard is not designed to Tesco Ireland requirements.
- The proposed development will prevent the operation of the existing Tesco stores.

- The logistics of deliveries makes the delivery system efficient but complex, with a central distribution system for deliveries entailing the consolidation of individual supplier products at a central warehouse for organisation and redistribution as part of a complete delivery.
- This delivery system is an exemplar in terms of transportation management and environmental sustainability, allowing for minimum deliveries across Tesco stores.
- It would be necessary to amend Tesco's back of house area, requiring construction of new facilities to rear of food store as well as reorganisation of back of house areas associated with the existing food store. For example, new lifts would be required to overcome change in level of between 2.8m between service yard and food store.
- Without these amendments Tesco would not be able to receive deliveries to the rear service yard and would have to find an alternative solution which may not be possible given the congested nature of the area, negatively affecting the viability of the stores.
- Requests that the Board either seek appropriate amendments under s.132, apply a condition requiring a revised service yard meeting the retailers' requirements (written confirmation from same) be agreed with the PA, or refuse permission and requesting that a revised application be made.
- The proposed development will otherwise force operators to park illegally and create a traffic hazard.
- The proposed development should be amended or refused as it will directly impact on the viability of the existing commercial premises and the proper planning and sustainable development of the area.
- The service yard, as appropriately revised, should be required by condition to be completed prior to any other part of the development to ensure adequate facilities are in place to enable continued trade operations during construction.
- The grant of permission places an anti-competitive obstacle in place of retail operations, forcing existing retailers to negotiate with the owner of the service yard to receive deliveries, despite their established delivery methods.

Use of Lane off Connaught Street – needs to be taken in charge prior to commencement of development

- DCC noted it will be necessary to take in charge the lane, which is essential to provide access to the service yard and to the future redevelopment of Dalymount Park.
- A condition should be attached requiring the development not to commence until the lane has been taken in charge, given that it may not be a simple process.
- This will ensure access to the yard will be sufficient and operate without being blocked by parked cars, in the best interest of traffic management.
- Should the lane not be available in future, the viability of the service yard and commercial operators would be unviable as it couldn't receive deliveries.
- Should the lane be used for construction access for Dalymount Park, priority will need to be given to deliveries at certain times of day.

Proposed works outside redline boundary – ability to carry out development is questioned

- Works to unit 7 and to Tesco store.
- These works require access through third party lands and consent from the third parties.
- The Board should consider the constructability of the proposal in the absence of third party agreement.
- A condition should be attached limiting works to within the redline boundary and requiring the submission of a copy of written agreement to works where occurring on land not in the control of the applicant.

6.2. Applicant Response

6.2.1. Response to **Phizzfest's** appeal, c/o Brady Shipman Martin:

- Welcomes the positive points of design referred to in the appellants' submission.
- The applicant and design team engaged extensively with local community groups and the wider public, including an open information evening in the office building, to

explain and outline the restrictions and constraints of the site and the rationale for the proposal.

Reason for mesh cladding

- The One Building [referred to by appellant] was necessarily vacant and underwent 18 months full and complete external and internal refurbishment works, entailing stripping the building back to its concrete frame.
- As indicated in the Architect's Report, the office building's façade is composed of 400 pre-cast concrete panels which are structural and load bearing (with windows fitting from inside), necessitating significant supporting structures to be installed at ground floor level (within Tesco store, outside the applicant's ownership) to facilitate their removal and replacement.
- The Tower is almost fully occupied with tenants on mid-term tenancies and vacant possession cannot be secured to facilitate comprehensive refurbishment (including window replacement) and the current tenants declines to engage due to the significant disruption this would cause their operations.
- In the context of the constraints, the design response is to veil the building in a mesh of expanded metal to integrate the Tower into the existing podium and principle frontage of the centre, conceived as a unifying element in the design of the scheme.
- The metal cladding also forms a canopy or lid to conceal the majority of unsightly mass of antennae on the roof.

Maintenance and cleaning of mesh cladding

- The anodised mesh cladding does not corrode and it has a weathered curved and smooth profile to encourage rainwater runoff so as to avoid dust/dirt accumulation.
- Pending detail design and the input of specialist contractors, cleaning is expected to occur on a 5-yearly basis, facilitated by a cherry picker.

Weathering

- The Phibsborough Road gable of the Tower is a completely consistent texture over its full extent, without ledges or horizontal surfaces, meaning that it will weather evenly.

Faraday Cage

- A Telecommunications Report is contained in Appendix 2 of the Planning Report. The mesh has been designed in consultation with telecommunications consultants Threefold. The report concludes that the mesh will not inhibit the telecoms infrastructure. Suggested rooftop landscape/planting screening would interfere with the functionality of the antennae.

Impact of weather / wind

- The open weave characteristic of the mesh does not offer wind resistance or attract wind load and the support structure can therefore be very modest in scale and will be designed/engineered to be as unobtrusive as possible, with fixings in stainless steel.

Windows

- The exterior of the windows will be cleaned down and repaired as necessary as part of the future maintenance regime.

Visual impact on adjoining residences on Z2 zoning

- The proposed development makes a meaningful and positive contribution to the prominence and urban structure of the shopping centre.
- See CGIs submitted with application showing the nature of the likely physical characteristics of the proposed development as well as its visibility within the wider environment and more immediate detail.
- The proposal to enclose the Tower and lower level shopping in an architectural mesh will not increase the visibility of the Tower, it will reinforce its landmark position and provide a unifying design to the centre.
- The mesh lightens and enlivens the structure and integrates and hides the roof plant and equipment successfully.

- The new blocks repeat the east-west alignment of the Tower but are distinctive in contemporary use and detailing of brick and glazing.
- Will be most noticeable viewed along Phibsborough Road (view 1 & 2), with Tower retaining its prominence over the background grain of the proposed new blocks. Views north along Phibsborough Road are more enclosed with development visible at close proximity.
- The North Circular Road / Cabra Road is an ACA to the south of the site, but the development is only fully appreciated at proximity in views along North Circular Road / Cabra Road (view 7), but not at a distance (view 4).
- The upper floors of the proposed development are visible behind the existing terrace of housing to North Circular Road but does not detract from the quality of the existing view from the vicinity of St Peter's Church (view 5).

Traffic movements onto Connaught Street

- The proposed development effectively reduces car parking on site with the redevelopment of lands to the south, removing parking accessed from North Circular Road. This is an effective demand management measure encouraging use of alternative means of transport, such as Cross City Luas, and the development will not have any significant adverse impact on the continued operation of the road network and will improve the situation on North Circular Road.
- DMURS is the relevant (road design) standard in this location. S.3.4.1 Vehicle Permeability states 'permeable layouts provide more frequent junctions which have a traffic calming effect as drivers slow and show greater levels of caution' and that 'drivers are more likely to maintain lower speeds over shorter distances than over longer ones. As drivers are able to access individual properties more directly from Access/Link streets (where speeds are more moderate) they are more likely to comply with lower speed limits on local streets'. Restricting right turns onto Connaught Street and forcing drivers on a longer detour is contrary to this.
- The existing surface and rooftop parking to the shopping centre will continue to operate as is.

- Following pre-planning discussions with the Planning and Roads/Transportation officials of DCC, the development access regime has been designed to accommodate future redevelopment plans for Dalymount Park.
- It is intended that the managed bollard controlled vehicular access will be for one-way HGV service access to redeveloped Dalymount to service special events (illustrated on NRB-TA-002, with HGV autotrack on NRB-ATR-001, submitted with application and appeal), a periodic and infrequent access arrangement requested by DCC.
- This route (from North Circular Road through to Connaught Street) has the potential to be a future cycle and pedestrian route subject to agreement with future Dalymount Park plans.
- The Local Authority at no stage raised the issue of no-right-turn onto Connaught Street, including in the reports on file or by way of condition.
- It is not reasonable or feasible to force all traffic, including HGV traffic, to turn left onto Connaught Street as it would increase traffic along a mainly residential street lined with parking.
- In their request to accommodate HGV traffic from Dalymount, DCC acknowledge that HGV traffic will be existing onto Connaught Street without imposing a 'no right turn' restriction on these movements.
- DMURS S.3.4.1 (referring to increasing access to neighbourhood cells) supports the case for unrestricted turning movements at Connaught Street allowing equitable distribution of traffic.

Historical heritage

- The Applicant agreed during consultation with the appellant to investigate the possibility of salvage and re-use elements of the tram yard, but a condition requiring this would be unmanageable as it is not clear if it is possible.
- A condition requiring that the Dalymount Park floodlights be incorporated into the development would not be achievable given their size and the fact that they are not in the ownership of the applicant.

Community gain

- The scheme delivers substantial community gain and a significant improvement to Phibsborough Village, including:
 - The Provision of new civic plaza of c.1500-sq.m as enhanced public realm responds to the Phibsborough LEIP, which identified the lack of a key civic space to accommodate markets, events, public art, etc., and to the policy objective of the Development Plan to provide such a space in the redevelopment of the shopping centre;
 - A prominent access to a redeveloped Dalymount Park.
 - High quality pedestrian route from North Circular Road to Phibsborough Road through the Plaza, reducing dependency on the busy Doyle's Corner, as a response to the challenging wider vehicular movement by providing a quality and safe pedestrian route for all.
 - Incorporating the proposed provision of a pedestrian / cycle route linking North Circular Road and Connaught Street, although it is dependent on lands outside the applicant's control.
 - Upgrade of shopping centre facades and screening of upper level parking.
 - Enhanced Phibsborough Road frontage through new landscaping strategy.
 - New larger retail and restaurant units to attract new customers.
- The *'positive points of design'* referred to by the appellant are also significant community gains.
- The ring-fencing of levies is a matter for the discretion of Dublin City Council.
- It is neither feasible nor appropriate to provide family homes given the constraints of the site.
- The applicant would be happy to liaise with a Liaison Committee if established by DCC and, in this regard, the existing Liaison Committee for Phibsborough LEIP may be an appropriate forum.

Other issues

- Independent retail mix – it is outside the scope of the Board to specify the type of retailer, other than use, that can occupy a unit and would necessarily limit the viability of the proposed scheme.
- Conditioning provision of pedestrian / cycle route – the route is facilitated by the proposed scheme but as it is reliant on lands outside the applicant's control the condition could not be complied with. The applicant is supportive of the delivery subject of agreement with adjoining landowner.
- Landscape screening of parking – the proposed façade treatment effectively screens roof level parking. The screening of surface parking would present security and accessibility challenges to the centre. An upgrade and softening of the boundary between the parking and Phibsborough Road forms part of the proposed development to improve the public realm to Phibsborough Road and to provide greater connectivity between the new public routes and spaces.
- Disability proofing – all internal and external spaces will comply with current accessibility standards/regulations.
- Energy efficiency – a Sustainability Report by Metec was submitted as further information, setting out the design and technology measures and devices to be used including the possibility of PV or solar thermal evacuated tubes, LED lighting, etc., most appropriate to the new build. Extensive retrofitting would be required for the existing Tower would be very challenging and not implementable with current tenants in place.

6.2.2. Response to Tesco Ireland Ltd.'s appeal/o Brady Shipman Martin:

Impact on Tesco Ireland and Phibsborough Shopping Centre

- The applicant and Tesco Ireland have engaged throughout the preparation of the proposed redevelopment application.
- The centre has been operating inefficiently for years due to a lack of investment in modern servicing facilities, limiting its ability to trade effectively and to attract other quality tenants.
- The proposal ensures a solution to future servicing of all the Centre's operators.

- Tesco have right of access over the service lane located to the rear of the units onto Phibsborough Road, which is used by other retailers, but which cannot physically be used by the articulated trucks (c.16.5m) chosen by Tesco for deliveries compared to rigid HGV (c.10m) (see NTRB-ATR-102). Tesco therefore currently service their unit mainly by articulated trucks parking and unloading at the front of the store onto Phibsborough Road.
- The use of articulated trucks in the car park entails interaction with customers, drivers, parked cars and pedestrians, restricts access through the shopping centre and requires unorthodox truck movements onto Phibsborough Road.
- The existing service arrangements are far from adequate and result from incremental changes over the lifetime of the shopping centre.
- The proposed development will accommodate an efficient servicing solution for retailers (existing and future), with a new service yard to the rear capable of accommodating articulated trucks, thereby removing the need for deliveries to the front car park.
- The applicant engaged with the Appellant's Design Team during the course of the application and agreed a joint design increasing the size of the service yard to accommodate Tesco's requirements, whilst safeguarding that other retailers can be effectively and efficiently serviced from a specially designed modern service yard.

Consequential necessity to amend Tesco's back of house facilities

- It is only within the applicant's ability to include for the provision of new lifts as the area concerned is outside the applicant's ownership and redline boundary.
- The applicant would be willing to accept a condition to include the required lift in the service yard as indicated on included drawings (NRB-ATR-103 and NRB-ATR-104, attached to response, refer).

Use of lane off Connaught Street

- DCC has informed that it has commenced the process of taking in charge a number of laneways around Dalymount stadium, with DCC Law Department instructed to prioritise that of the lane the laneways off Connaught Street leading the shopping centre car park ahead of the others due to its role in the plans for redevelopment of the stadium. DCC has stated it will proceed to CPO if required.

- It is not considered appropriate to attach a condition in this regard as the process will run in tandem with the development and should not preclude the commencement of the proposed development.

Redline boundary

- Works to unit 7 and Tesco store – the scheme proposes to upgrade the façade of all of the existing ground floor units onto Phibsborough Road as shown on elevations in context.
- It is made clear in all drawings and documentation that unit 7 and Tesco store (unit 13-17) do not form part of the application and therefore no works are proposed to same.
- The applicant acknowledges that a grant of permission does not necessarily give legal right to carry out a development and that parties have other legal avenues to address disputes over rights.
- These issues were considered and addressed in the original application and in the amendments at further information response stage and in previous and future consultations with them.

6.3. Planning Authority Response

The Planning Authority makes further comment in its submission of 04/12/17, other than to request the Board to uphold its decision and to direct the Board to the Planner's report on file.

6.4. Observations

Anne Gannon (no.14), Ruth Parkin and Eamonn Maher (no.5) Munster Street, Phibsborough (15/12/17). In addition to the points made by Phizzfest (and supported by the observer), the following points are made:

- The cladding of two sides and the roof of the tower only will lead to a different but continued lack of uniformity in the external facades of the building.

- The requirement that further details of the mesh be provided prior to commencement of development will not provide sufficient opportunity to allay residents' concerns and should be addressed prior to a decision on the appeal.
- This is similarly so for the polycarbonate cladding to the stairwell, which is prone to cracking and staining.
- A more appropriate alternative may be to fully re-clad the Tower and replace the windows, ensuring the resultant space is desirable for tenants seeking high quality office space near to the city.
- Agrees that interim solutions are not appropriate for development of this scale, that a mix of independent retail is needed, that it be disability proofed and energy efficient and provide a mix of accommodation for family and student accommodation, and also supports the traffic management and heritage concerns raised.

Mary Fitzpatrick (18/12/17)

- The un-amended permission is a missed opportunity.
- Notes potential conflict of interest due to Council's interest in Dalymount Park.
- It is disappointing and unsatisfactory that the development of the shopping centre and Dalymount sites are not progressed simultaneously.
- Supports all conditions attached excluding nos.4 (restricted units to student accommodation) and 6 (concerns agreement of mesh details).
- Community gain, affordable mixed housing, and adequate refurbishment of the tower block should be addressed by the Board.
- Supports ring-fencing of contribution condition no.2 to mitigate traffic congestion and upgrade of streetscape and environment.
- Re condition no.4, there is no definition of what constitute a higher education institute.
- Will contribute to over-concentration of short-term housing in this area and provide no opportunity for downsizing by elderly residents from larger 3 or 4-bed houses to free up family homes. Must be seen in context of 8000 student beds in operation and / or proposed for this part of the city.

- Replace condition 4 with requirement to provide 30% long-term affordable accommodation to rent or buy.
- The office block should be treated as a conservation project and mesh proposal rejected due to visual impact and impact on Z2 residential zone, addressed by condition.
- Explore option of roof landscaping for screening.

Marie Sherlock (18/12/17):

- Welcomes proposed redevelopment but concerned for absence of integrated planning with Dalymount Park.
- Concern that tower cladding lacks ambition and imagination befitting a project of this scale in an historic village and suggest a vertical green garden or similar initiative instead.
- Proposal for 341no. student beds. Must be seen in context of 8000 student beds proposed for this part of the city. Need for residential accommodation mix is critical for village.
- Need for liaison with community given scale of project and noise and traffic disruption.
- Notes merits of the scheme, including plaza.

Councillor Cieran Perry (18/12/17):

- Supports Phizzfest's appeal.

6.5. Further Responses

6.5.1. Further response from **Tesco Ireland Ltd** (11/01/18):

- Tesco Ireland Ltd welcomes the proposed redevelopment in general and promotes improvements to its surrounding environments and actively promotes such redevelopment but not to the detriment of its business.

- Tesco has engaged with the applicant but is concerned that its inputs has been disregarded and therefore questions the viability of future operations of its existing store within the development.
- Access and continued operation of the car park is essential to store's viability.
- The specific details and level differences will not facilitate deliveries.
- Regarding third party concerns about the use of the car park, this area is central to the operation of the Tesco store and the other retailers and is essential for many customers.
- There has been no resolution to Tesco's concern regarding the service yard, with no amendments.
- Reiterates three options for the Board to take (s.132 additional information; condition; refusal) otherwise a grant of permission may not be implementable.

6.6. Oral Hearing

- 6.6.1. An oral hearing was held on 03/05/18, lasting one day. The following parties and observers made oral submissions (approximate time of submissions in brackets):
- 6.6.2. **First Party** – Phibsborough Shopping Centre Ltd, represented by Brady Shipman Martin: Pauline Byrne, Partner and Head of Planning (09.39-09.47; 10.28-10.34; 11.14-11.19); John Winslow, architect (09.47-09.58 and 10.36-10.44) and Mark Turpin, architect, (09.47-09.57; 10.28-10.34; 11.08-11.14) both being Co-Directors of Donnelly Turpin Architects; and Seamus Nolan, Civil Engineer and Director with NRB Consulting Engineers (10.44-11.08). John Campbell (JJ Campbell & Associates Structural Engineers) made no submission but answered questions on asbestos and replacement windows (15.04-15.06).
- 6.6.3. **Planning Authority** – Dublin City Council represented by Brian Ward, Senior Planner (response to questioning only), Siobhan O'Connor, Senior Executive Planner (11.39-11.59). Christopher Manzera (Roads Division Engineer) made no submission but responded to questions on traffic management (16.25-16.28); Don Daly, representing the Council's Culture Recreational & Economic Services Department, made no submission but responded on the question of intended redevelopment of the stadium (17.19-17.21)

6.6.4. **Third parties –**

Phizzfest – Represented by Peter Murray (12.00-12.22), Susan Dawson, Tidy Towns (12.22-12.30) and Joe Costello, Labour Spokesperson for Urban Regeneration (12.30-12.41).

Tesco Ireland Limited – Represented by GVA Planning: Robert McLoughlin, Planner and Director of GVA (12.41-12.43).

6.6.5. **Observers**

Mary Fitzpatrick, Fianna Fail (12.44-12.53)

Marie Sherlock (12.53-13.02).

Councillor Cieran Perry, Independent (14.04-14.10)

Des Gunning, **new observer** (14.10-14.24)

Garda Representative Association, Association of Garda Sergeants and Inspectors, Garda Benevolent Trust Fund (Garda Benevolent), St Pauls Garda Medical Aid Society (Medical Aid) and Garda Holiday Club Ltd (Travel Club) – **new observer** represented by GDCL Consulting Engineers: Greg Daly (14.25-14.35). No new material issues raised.

6.6.6. The information submitted by the parties was largely that already submitted in writing on the application and appeal file, which have already been synopsised above. I refer to pertinent oral submissions and responses made to hearing within my assessment below.

7.0 Assessment

The main issues arising in this case may be appropriately addressed under the following headings:

- 7.1 Policy context and integrated development
- 7.2 Design and visual impact
- 7.3 Accessibility, movement and transport
- 7.4 Mix of uses
- 7.5 Contributions

7.1. Policy context and integrated development

- 7.1.1. The Dublin City Development Plan 2016-2022 is the statutory plan. The lands are wholly zoned objective Z4 District Centres (including Key District Centres) '*to provide for and improve mixed-services facilities*' and Phibsborough is identified / designated a 'Key District Centre' (8). The southern section of the site falls within the designated Architectural Conservation Area on North Circular Road and southern Phibsborough Road.
- 7.1.2. The proposed uses, as revised through further information submission, comprise retail and restaurant / cafe use at ground and first floor levels, student accommodation access and facilities at basement, ground and first floor levels, associated plant at basement and ground floor levels, commercial office at second and third floor levels and student accommodation (residential) at 2nd floor through to 7th floor levels inclusive. The proposed uses are permitted in principle on lands zoned Z4 District Centres.
- 7.1.3. Sections 14.3 Policy Approach and 14.8.4 District Centres – Zone Z4 provides that a number of general principles shall be applied in the development of Z4 District Centres, pertaining to, inter alia, population, density, transport, commercial/retail, built environment and capacity for development. I will address how the proposed development addresses these principles within the relevant sections of my assessment, below, as necessary, with particular reference to potential conflict

arising with Council's zoning policy concerning population (diversity in unit types and tenure), transportation (prioritising of pedestrian and cycle movements), commercial/retail (provision of animated streetscapes) and the built environment (high quality, mixed-use urban districts and coherent structure of interconnected streets).

- 7.1.4. There is currently no adopted local area plan for the Phibsborough area. The 2008 LAP lapsed in 2014¹ and the proposed LAP 2015 failed to be adopted by the Council (07/12/15). S.2.2.8.1 of the Plan (table F) identifies Phibsborough LAP as one of 6no. statutory LAPs proposed to be made within the lifetime of the plan, the order of delivery of which is to be determined by the City Councillors. Based on the response of the Council's Senior Planner, Brian Ward (16.35), it would appear that there is no specific time frame for the making of Phibsborough LAP and therefore, having regard to the Development Management Guidelines (2007), the proposed development cannot be regarded as premature pending the making of the LAP.
- 7.1.5. Phibsborough Shopping Centre and Dalymount stadium (which is in Council ownership) were identified under the 2008 LAP and the draft 2015 LAP as one of the key redevelopment sites of the area, envisaging an integrated approach to the development of the two neighbouring properties (the development envisaged for Dalymount Park altered radically between the two LAPs). Under the 2008 LAP it was anticipated that the football stadium would relocate to another site and the grounds redeveloped for a mixed-use development; it is now proposed to redevelop a new football stadium on the site, as is reflected in objective GIO38 of the Plan and the Council's zoning objective (Z9) for that majority of that site. The eastern portion of the stadium, within the current application, is zoned Z4.
- 7.1.6. There is no requirement under the Plan that the two sites be developed in tandem, notwithstanding that this would be the ideal planning approach - an integrated approach and provision of access to the stadium site is encouraged under the Retail Strategy (Appendix 3 of the Plan). The proposed development makes provision for access to Dalymount Park from North Circular Road (vehicular and pedestrian), Phibsborough Road (pedestrian) and future access to/from the lane off Connaught Street. The interface between the two sites remains somewhat uncertain as the

¹ <http://www.dublincity.ie/PhibsboroughLAP> (accessed 23/04/18).

plans for Dalymount Park redevelopment are at a very early stage, with the appraisal of project not anticipated to be finalised until mid-June (Don Daly 17.19), and I have some concerns about the integration of development between the two sites, which I discuss, below.

7.1.7. It is an objective (RD01) of the Plan to implement the retail hierarchy as set out in the Retail Strategy and to promote the retail provision including the revitalisation of existing established centres. The Retail Strategy, supports the redevelopment and revitalisation of the existing Phibsboro Shopping Centre, which expands the retail offering, stating *'New development shall be of a suitably high density and mix to create new job opportunities at this key nodal point which is highly accessible by public transport. Uses that create an 'evening economy' and enhance the attractiveness of the centre will be encouraged, as will the integration of the site with the adjoining Dalymount Park, ideally creating a new enhanced public entrance to this sporting venue. The provision of a new civic plaza will also be sought.'*

7.1.8. **Conclusion** - The proposed development can be seen to be generally in accordance with the objectives, policies and strategy under the Development Plan, concerning the revitalisation and development of Phibsborough KDC and shopping centre, and the principle of the proposed development is therefore considered to be acceptable.

7.2. **Design and visual impact:**

7.2.1. **Height** - I consider the overall design approach, in terms of height, massing and finishes of the proposed new build elements to reasonably consistent with the surrounding streetscape context. In terms of building height, the student accommodation (inclusive of existing ground and podium parking levels) presents 6-stories (c.20m) to Phibsborough Road behind a c.8.5m setback from the public footpath; it progressively steps up to c.22.5m and c.25.3m (c.23.2m above proposed finished level to the proposed west lane) westwards within the site (at a distance of c.26.8m and c.60.5m from Phibsborough Road). In my opinion this is not excessive in its context, being significantly lower than the existing 28m high office tower (c.30.6m to top of access core), notwithstanding that the proposed buildings would project 3m forward thereof. The proposed height and arrangement of development would provide appropriate visual enclosure of the streetscape to Phibsborough Road, which currently lacks visual enclosure typical of an urban centre due to the

1960's suburban design and arrangement of the shopping centre. The building proposed to North Circular Road is almost 10m to parapet, with a slightly higher (by 1.75m) element addressing the proposed civic space, recessed well behind the street front.

- 7.2.2. The Plan contains location-specific policy on building heights for the city area (s.16.7.2 *Height Limits and Area for Low-Rise, Mid-Rise and Taller Development*). The '*Building Height in Dublin*' table under that section sets height limits for low rise areas depending on whether they are 'inner city or 'outer city'. The site is defined as an 'outer city' location on Map K of the Development Plan, the boundary of the inner city being to the south and east of the site along North Circular Road and Phibsborough Road, respectively. Within the 'outer city' low rise building height levels are limited to 16m for both commercial and residential development, which would be significantly exceeded by the proposed development. Phibsborough is specifically identified to remain a low-rise except that '*the addition of one additional storey of 4 m will be considered in relation to any proposals to reclad the existing 'tower' at the Phibsboro Shopping Centre*' - I would interpret this as applying to the existing tower rather than to new development on the wider site. However, the Plan allows that buildings of increased height (up to that already existing on site) may be permitted in low-rise areas where a site has a pre-existing height over that stipulated in the Plan². The Board is therefore entitled to grant permission buildings of height within this site.
- 7.2.3. In this instance, given the presence of an existing isolated tall building on site; the stepped height design with the highest elements set back within the site; the large setback of the building line to Phibsborough Road necessitating buildings of greater height to provide appropriate urban-style visual enclosure; the separation distance between the taller buildings from surrounding sensitive properties; and the nature of the adjacent lands to the east (being an existing and proposed redeveloped football stadium), I consider the proposed height to be acceptable and to be welcomed in terms of its contribution to the urban design of the Key District Centre. In this regard, I would highlight that excessive height did not constitute one of the grounds of

² Subject to submission of additional, specified documentation justifying the additional height. I am satisfied that the documents submitted, including photomontages, Architectural Design Report, etc, in addition to the elevation drawings, satisfy same.

appeal and was not raised by observers to the application or appeal as a particular concern.

- 7.2.4. The applicant submitted photomontages (*Accurate Visual Representations* document) and an *Architectural Design Report* with the application. Whilst the range of locations from where the images are taken are reasonable, the accuracy of the photomontages submitted by the applicant is questionable.
- 7.2.5. It would appear evident that some, if not all the images were taken from approximately waist-height level rather than from average eye level, reducing (if marginally), the visibility of the proposed development as viewed behind existing development. This is of most concern to the southwest and southeast, where the proposed student accommodation will obtrude above existing structures, including 2no. Protected Structures and the Architectural Conservation Area encompassing from certain vantage points. Notwithstanding these concerns, the potential visual obtrusion is unlikely to such as to be detrimental to the character of the ACA or to materially affect the character of a Protected Structure.
- 7.2.6. I consider the proposed building presenting a 3-storey frontage onto the North Circular Road to accord reasonably well with the character of the historic village core and the ACA in terms of proposed height, massing, design and finishes.
- 7.2.7. **Cladding** - The proposed metal-mesh cladding to the existing office tower block was raised in the third-party grounds of appeal and in observations on file. The metal-mesh skin is proposed to cover the entire front (east) elevation of the tower, extending over the top of the structure as a part-canopy (c.1.7m above existing parapet) to screen telecommunications equipment, and to cover the west (rear) elevation in a different arrangement. The mesh proposals are included in the photomontage representations on file, with additional details submitted as further information (document no.14 *Proposed Over-Cladding*; and drawing no.P_04_02), which are largely repeated in the illustration booklet submitted to the oral hearing.
- 7.2.8. There has been concern that the mesh would look cheap and would negatively affect the interior of the building in terms of access to light, would rust and / or attract dirt / rubbish. It has been suggested that rather than cladding the existing structure, the building should be refurbished and treated as a conservation project similar to the Sam Stephenson designed '*The One Building*' (Grand Canal Street). The applicant

has responded that it is not possible to refurbish the entire building, due to its particular design, as it is almost fully occupied. John Campbell (Campbell & Associates Structural Engineers, 15.05) submitted to the hearing that the replacement of the windows, alone, would take approximately one month per floor due to the integrated design of the fenestration with the precast concrete panels. The mesh is proposed effectively as an interim solution to improve the overall appearance of the structure, including the visual appearance of the telecommunications equipment, and is designed to be self-cleaning and non-corrosive, with 5-yearly maintenance anticipated. The applicant disputes that it would affect the internal amenity of the office units, but one would expect that it would not benefit the offices affected.

- 7.2.9. The photomontages of the proposed works (views 1, 2 and 9) do not appear to accurately show the extent of the mesh proposed to the tower. The *proposed part cross-section A-A* and *proposed part plan (P_04_02, 20/09/17)* show the proposed mesh would project no more than 300mm from the existing front/rear tower façades, and elevational drawings P_03_30 (20/09/17) show that the proposed mesh would laterally project no more than c.300mm beyond the side (north / south) tower façades. It would not be possible to see the inside of the mesh structure along the rear façade, or to see the access core or sky through the front mesh (views 2 and 9, respectively) as the lateral extent of mesh would be far more constrained than is portrayed in the said views. The void in the mesh to the front and rear elevations at rooftop level – necessary for telecommunications to see out and operate – are not shown on the visual montages. View 2 shows a highly idealised and unrealistic version of the existing office building façade in the proposed view in terms of the appearance of fenestration and concrete panels, neither of which are proposed to be refurbished as part of the proposed development.
- 7.2.10. In response to Inspector's questioning the applicant (16.39-16.48) could provide no information on any guidelines used to inform the visual impact assessment. I am not confident that the proposed mesh will appear much like that shown in the photomontages. The examples of similar mesh cladding implemented on buildings, detailed in the '*Proposed Over-Cladding*' document submitted in response to the further information request provide a better idea of the likely visual impact.

- 7.2.11. The existing access core is proposed to be clad with translucent polycarbonate at the lower levels and glass with stove enamel front at the upper levels. The proposed cladding would appear to be of a reasonable quality and its design and location has the potential to visually unify the existing office block (remaining unclad, as I recommend) and the proposed student accommodation blocks. There are also obvious merits to screening the existing podium level that would otherwise be left as a disconcerting void within the scheme and I consider it reasonable to permit same.
- 7.2.12. I am not convinced of the visual benefits of screening the tower block, and the existing 2-storey section, which will add further to the visual clutter of the site. It would be difficult to argue that the building is equivalent to 'The One Building' in terms of architectural significance, but, nonetheless, the building is of its time and to obscure its key feature - the structural or loadbearing concrete panels of its principle facade – would, in my view, detract from the architectural honesty of the original design and be a needless loss to the cityscape of Dublin. I would therefore recommend that, in the event of a decision to grant permission, the proposed mesh cladding be omitted from the tower and 2-storey element of the shopping centre building to the north of same. However, there is nothing to suggest that the proposed intervention would be irreversible and it would not be unreasonable for the Board to take a different view on the acceptability of the mesh.
- 7.2.13. The proposed mesh arrangement on the rear elevation (P.03_02, 20/09/17) is disjointed and is inconsistent with the simple design proposed to the front elevation and is not shown correctly in the photomontages (view 2). Should the Board decide to grant permission to include for the mesh covering, I would advise that a condition be attached requiring a similar, simple, arrangement be provided to the rear elevation as to that proposed for the front.
- 7.2.14. **Telecommunications Antennae** – The proposed mesh is ostensibly proposed in order to improve the visual appearance of the telecommunications equipment on the tower building and access tower, etc. The details and drawings would suggest proposals to reduce and reorganise the telecommunications equipment on the structure. The *Telecoms Report* (Appendix 2 of *Planning Application Report*) submitted with the application, comprises a telecommunications operator's view of the proposed development by Threefold Project Management. It states that the Phibsborough office block '*is a core telecom site*', for reasons of height and

clearance from other buildings, with over 70no. antennae, comprising local and very local equipment, for 6no. networks. The proposed mesh and other cladding has been designed with apertures necessary for antennae to 'look' out through in order to avoid radio shield affects and raises no objection to the proposal. The report makes no reference to rationalisation of existing equipment at rooftop or other levels.

- 7.2.15. In response to inspector's questions, Pauline Byrne (16.48) confirmed to the hearing that all the existing equipment is currently in use and there are no proposals to rationalise the numbers of equipment as part of the proposed development, but that it is anticipated that they would be removed as and when they became redundant. There is no definite reorganisation scheme proposed, as such, as part to the application, just indicative sketch proposals. John Winslow (16.46) responded that all antennae or dishes close to perimeter *can* move back and can be moved to the zone indicated in the sketches, below and above the mesh but the exact locations and heights would have to be confirmed with the experts.
- 7.2.16. The '*proposed*' photomontages do not therefore reflect actual proposals for the location, arrangement, type and numbers of telecommunications equipment. The Board should also be aware that the '*existing*' photomontage views (e.g. view 2) do not show the existing arrangement of the said equipment but were edited out in error (the more distant '*existing*' view 1 would appear to be correct).
- 7.2.17. Regarding to the planning status of the existing telecommunications equipment, Pauline Byrne (16.48+) submitted that some of the equipment will have been covered by exempted development provisions and some by planning permission, but she accepted that there was some uncertainty. Brian Ward (16.48), noted the grant of permission for retention (PL29N.240504) referred to in the Planner's Report, but he was not certain whether this related to all the equipment. The said permission would seem to have authorised retention of only 22no. items (link dishes and antennae) for a 5-year period, which has now expired. It is not within the remit of the Board to determine whether any existing items are unauthorised – this is a matter for the Planning Authority – however the status of the equipment does have some bearing on the Board's consideration of the justifications for the proposed mesh cladding and capping. I would accept the applicant's submission concerning the critical importance of the office building to the telecommunications networks in this part of Dublin.

- 7.2.18. The reorganisation of telecommunications equipment similar to that suggested in sketch proposals in the application would have a positive visual impact, whether or not the proposed mesh cladding is put in place. Should the Board decide to grant permission, it may consider it appropriate to attach a condition requiring that such a scheme be agreed with the Planning Authority prior to first occupation of any units within the proposed development, but only for those items that are currently authorised by a grant of permission, or otherwise covered by exempted development provisions.
- 7.2.19. **Landscaping and boundary treatment** – The proposed development provides a landscaped plaza connecting to North Circular Road and Phibsborough Road and potentially to Connaught Street via a new west lane to be developed in conjunction with the anticipated Dalymount Park redevelopment. This is to be broadly welcomed on visual and amenity grounds, but there are accessibility issues arising from, inter alia, the stepped design of the civic plaza, which compromise the amenity of the space proposed and which I address below.
- 7.2.20. The Landscape Planning Report submitted with the application (see p.6 Landscape Strategy and p.11 The Phibsborough Road Approach) indicates that the existing stub wall would be removed from Phibsborough Road and details tree planting proposals there-along. The required tree pits would be located half onto the public pavement and half within the site, but the Planning Authority raised no issue in this regard. These proposals conflict with Tesco's current service delivery access operations (covered by covenant) and there is uncertainty as to whether they can be implemented in full (I address this issue in more detail later in my report). The details of the proposed roadside boundary are somewhat vague, but indicate the use of drop bollards to allow occasional emergency vehicle access. The entrance to the civic space from North Circular Road and Phibsborough Road is a little inconsistent between documents and drawings on file, but it would seem that it is proposed to generally block vehicular access, with removable bollards providing occasional access. These issues can be addressed by condition.
- 7.2.21. The applicant confirmed to the hearing that it is proposed to also remove the existing stub wall boundary from along Connaught Street – this was not clear in the application – replaced by an open boundary, demarcated by a change in materials and a wheel-stop (lip) to prevent cars projecting onto the public footpath, similar to

that along Phibsborough Road. The applicant submitted that it is proposed to agree the detailed design with the Planning Authority, which is acceptable.

7.2.22. **Other heritage issues** - The proposed development does not provide for the integration of the industrial heritage (tram yard buildings, etc.) remaining on site and the Planning Authority did not require that it do so. The reuse of the stonework from the tram yard buildings and other related material that may remain on site might be desirable, but it is not essential under the provisions of the Development Plan. The possible reuse of the existing floodlights and support structures from Dalymount Park, on or off site, are a matter for Dublin City Council as the owner of that property.

7.2.23. The archaeology condition attached to the Planning Authority's decision, as recommended by the City Archaeologist, is appropriate.

7.2.24. **Conclusion** - On balance, I consider the proposed development would have a positive impact on the visual and general amenities of Phibsborough Key District Centre and should be welcomed. I consider the mesh cladding proposals to the office building and 2-storey element to be unnecessary and undesirable from a streetscape and architectural perspective and would advise that they be omitted. The details of the mesh cladding screening to the podium level would be a positive development and it would be appropriate for the details of same and for a coherent signage scheme for the overall development to be subject of agreement by condition. The decision should not be taken to authorise the retention, relocation, or provision of any telecommunications equipment, or any rooftop structures / containers etc. It may be appropriate to attach a condition requiring the applicant to implement, prior to first occupation of any units within the proposed development, a scheme for the appropriate re-arrangement of all authorised telecommunications agreed with the Planning Authority. The details of landscaping, planting and all boundary treatment should also be agreed with the Planning Authority by condition.

7.3. **Accessibility, movement and transport**

7.3.1. The site is well located to take advantage of sustainable modes, including LUAS Cross-City, the bus network and passive modes. I consider the proposals for bicycle parking facilities (at basement and within civic space) and no additional car parking (an effective significant reduction will result from removal of informal surface parking

in addition to loss of some existing formal parking from podium level) to be reasonable within the context of the scheme, to be consistent with government policy and I note that they were acceptable to the planning authority and its Roads Planning Division.

- 7.3.2. Concern has been raised in the grounds of appeal and by observers regarding accessibility to and through the proposed civic plaza and new west lane and the existing shopping centre forecourt for pedestrians, including the mobility-impaired and for wheelchairs, buggies and prams, etc., and also concerning the provision of a cycle route via the proposed west lane. Third party appellant, Tesco Ireland Ltd., has appealed the decision on the basis of the potential adverse impact on its service delivery operations. The applicant was requested in the Oral Hearing Agenda to address this issue at the hearing, with reference to Council policy (SN29 of the CDP 2016):

*'To promote built environments and outdoor shared spaces which are accessible to all. New developments must be in accordance with the principles of Universal Design, the City Development Plan's Access For All Standards, and the National Disability Authority's 'Building For Everyone'.
(underlining, my emphasis)*

- 7.3.3. In this regard it should be noted that building regulations, TGD M - Access and Use (commonly known as Part M), will necessarily apply to the proposed development, including external space, which set out the minimum level of provision. However, Part M notes that its *'requirements underpin the principle of Universal Design'*³ (p.9) and further states that *'those involved in the design and construction of buildings should also have regard to the design philosophy of Universal Design and consider making additional provisions where practicable and appropriate'* (p.10)⁴.

³ Universal Design is defined in the Disability Act 2005 as "the design and composition of an environment so that it may be accessed, understood and used to the greatest practicable extent, in the most independent and natural manner possible, in the widest possible range of situations and without the need for adaptation, modification, assistive devices or specialised solutions, by persons of any age or size or having any particular physical, sensory, mental health or intellectual ability or disability."

⁴ <http://www.housing.gov.ie/sites/default/files/migrated-files/en/Publications/DevelopmentandHousing/BuildingStandards/FileDownload%2C24773%2Cen.pdf> (accessed 06/06/18).

- 7.3.4. The issue of access, mobility and movement is particularly complicated and multifaceted within the proposed development, pertaining to different users (pedestrians, physically impaired, cyclists, cars, LGVs and HGVs), different facilities (civic space; existing shopping centre and offices; proposed retail, offices and student accommodation; existing / redeveloped soccer stadium), for different purposes (access; amenity; service deliveries; existing / proposed pedestrian / cycling permeability / through routes) and with a number of rights of way across the site and covenants (over parking and service delivery access – discussed in some detail 15.08-15.50) necessary to be accommodated.
- 7.3.5. This is further complicated by the nature of the urban spaces and routes proposed and existing through the site (proposed civic plaza and connections to North Circular Road and Phibsborough Road; proposed future west lane between North Circular Road, Dalymount Park, the proposed service yard, the existing podium parking area and Connaught Street; and the existing shopping centre forecourt) and how they might be expected to integrate with the wider road network (the aforementioned public roads, but also the existing mews lanes, including Dalymount Lane).
- 7.3.6. Finally, the possible design solutions to satisfactorily accommodate all the said factors are necessarily constrained by the significant level differences between key access points to the site – North Circular Road (28.25m OD), Phibsborough Road (26.51m OD), Dalymount Park and Dalymount Lane⁵ (29.5m OD) and Connaught Street (27.5m OD)⁶ – and also by the floor levels of units proposed within the scheme.
- 7.3.7. **Civic Plaza** - The proposed civic plaza may be considered the principle urban design feature within the proposed scheme. Such a space has the potential to contribute positively to the amenities of the Key District Centre and to the wider Phibsborough area. The space is described as 24m wide and 35m long in the illustration booklet submitted to the hearing (Landscape: Civic Plaza – Scale Comparison), in which the comparative scale of the plaza relative to other such spaces in the city is illustrated, however the ancillary spaces to the south, west and east extend the perceived and actual functional size of the space and have the

⁵ Estimated based on site inspection and the level given for Dalymount Park.

⁶ From P03_01 Ground Floor Plan, except for Dalymount Park which is from HED1260.001 Landscape Masterplan submitted with application.

potential to add further to the amenity of the space. Overall, the space will benefit from its reasonable orientation running east-west but with an opening to the south to North Circular Road, and would have good access to direct sunlight and daylight. The space would also have a very good level of passive surveillance at ground and upper floor levels and is addressed by active uses in the form of retail units and student accommodation reception at ground floor level. In this regard, the Plan's *Residential Quality Standards* (s.16.10.3), its provisions for *Shopping Centres* (s.16.23) and its *Safety and Security Design Guidelines* (s.14.1, Appendix 14) advises that new development should promote safety and security and avoid anti-social behaviour by, *inter alia*, maximising passive surveillance.

- 7.3.8. There are elements of the civic plaza layout that may detract from or reduce its utility and quality as an open space. In particular, the significant level change at the western side subdivides an already relatively narrow space fronting onto the North Circular Road and also the larger central space (see landscaping drawing HED.1260.0003, submitted with the application). Whilst subdivision of such spaces is not uncommon, or necessarily undesirable, the approach to the subdivision in this instance does not, to my mind, appear to have been done in a particularly imaginative or positive manner, such as would provide clear and accessible linkages between sub-spaces and create an attractive focus or feature around which activity might be expected to naturally take place.
- 7.3.9. Of greater concern is the impact the proposed design has on pedestrian permeability and mobility / movement through the site. The stepped arrangement would present a significant barrier to people of impaired mobility, including wheelchair users and people with buggies, etc., necessitating them to take a circuitous route between the shopping forecourt / Phibsborough Road and the entrance to the student accommodation and Dalymount Park - an additional c.80m walking distance⁷. This is contrary to universal design guidance which advises that design ensures '*barrier-free access for all...[and] travel distances should be minimised where possible*' (p.10), and therefore contrary to Council policy SN29.

⁷ This would be further increased by street furnishing proposals – drawing no. P_04-08 submitted as FI.

- 7.3.10. At the hearing, Mark Turpin suggested that a platform (wheelchair) lift could be provided in the plaza to overcome the access issue. The applicant's proposed solution would segregate wheelchair users from general pedestrians, introduce a time delay for the mobility impaired and entails a constant risk of mechanical failure and require maintenance indefinitely. Universal design suggests the approach should be '*to adjust ground levels more broadly to eliminate the need for a ramp or steps altogether*' (p.43) which is surely feasible within a largescale redevelopment of the application site, notwithstanding constraints.
- 7.3.11. According to the reports from Council's CRES Department, the stepped design of the civic plaza present crowd safety issues in terms of its accommodating access / egress of up 7000 people attending events at the intended redeveloped Dalymount Park. A design following the universal design guidance would likely resolve this issue. The Board has the option, in the event of a grant of permission, of attaching a condition requiring the civic plaza and associated areas to be amended to comply with the universal design approach (possibly providing a more gradual slope with intermittent level areas) required by Plan policy. I would caution that Mark Turpin (17.01) considered the proposed site levels to be fixed and cannot be changed and submitted that the site presented a significant challenge to accommodating the proposed ramped access (for wheelchairs) design due to the difference in levels between Phibsborough Road, North Circular Road and Dalymount Park. A review of the three stepped slopes between the plaza and North Circular Road indicates that they all exceed 1:20 (5%) - the uppermost gradient is c.1:11 (9.2%)⁸ - and therefore constitute ramps under Part M of the Building Regulations and would therefore appear to warrant additional design elements (hand rails etc) under the regulations and universal design guidance ('*Buildings for Everyone, A Universal Design Approach*'). This cannot be considered desirable in newly designed civic plaza given the space available.
- 7.3.12. The situation is further complicated by the potential to open up the plaza onto Dalymount Lane (ostensibly a public lane) adjacent the southwest of the site. Although the opening up of the lane was not considered in the proposed design, or in the Planning Authority's assessment of the case, both the applicants and the

⁸ Rise 230mm/run 2500mm * 100 = 9.2%; or 1:10.8

Planning Authority welcomed the concept in discussions at the hearing (17.10+) and, indeed, this was envisaged under the LAP 2008. On further investigating this issue I found there to be a difference of approximately 1m between the level of the terminus of the lane and the proposed level of the adjacent plaza to the east. A pedestrian interface between the said lane and the adjacent upper plaza space, whilst feasible along its northern boundary, would be particularly tricky on the eastern boundary and would need careful (and imaginative) consideration in design. Within the context of amending the overall civic plaza and associated spaces to provide for the reconfiguration of the North Circular Road space to enable safe access for HGVs (I address this issue elsewhere in my assessment), the difficulties of interfacing with Dalymount Lane may be more easily resolved.

- 7.3.13. The Universal Design guidelines acknowledge the difficulties in developing sloping sites. It advises that access routes with a gradient of 1:33 (3%) should provide level landings at maximum at 25m intervals, reducing to no more than 19m intervals for gradients 1:25 (4%), in excess which external ramps would be required. In theory a gradient of 1:34 (2.9%)⁹ west-east across the plaza to the Phibsborough entrance could be achieved in lieu of the proposed stepped design, obviating the need for landings - this is not to suggest that a single, even gradient is necessary to comply with the universal design approach, but it is one possible option.
- 7.3.14. A revised space would need to provide level access to the individual commercial units fronting onto it, as one of its primary functions. Assuming a gradual graded space from North Circular Road (and Dalymount Park) towards Phibsborough Road, significant amendments would likely be required to the proposed finished ground floor levels to units A4 (and the access level to office above) and A2, with more minor amendments to units A1 and A3. A review of the revised site sections and floor plans show that units A4 and A3 have floor to ceiling heights of 4.8m at ground floor levels and unit A1, 5.85m, and probably have sufficient flexibility. Unit A2, a 2-storey unit of 2.7m floor to ceiling heights, would probably need to be amalgamated to a single floor level, at least at the front of the unit.

⁹ Rise 1900mm/run 65000mm * 100 = 2.9%; or 1:34 (from adjacent Dalymount Lane to entrance to Phibsborough Road).

- 7.3.15. It is difficult to determine the full implications of the regrading of the civic space and accesses to meet universal design, as this will depend on a number of factors. However, the current design approach is contrary to the design approach required by Council policy and to the proper planning and sustainable development of this strategic site within the key district centre. The Board may consider it appropriate to attach a condition requiring the final design of the civic plaza and access to/from the surrounding public roads and to/from Dalymount Park and Dalymount Lane, to be amended to comply with '*Buildings for Everyone*' universal design guidance, in addition to the requirements for safe crowd access/egress to/from the redeveloped stadium, to be agreed with the planning authority prior to the commencement of development.
- 7.3.16. The eastern end of the plaza (or its associated access from Phibsborough Road) is also subdivided with stub wall separating two different gradients. It can be assumed that this results from the need to accommodate an existing right of way to a mews lane and to the ESB substation to the south. The proposed arrangement is not much better than that already existing, but the addition of steps to the northeast end is a positive, allowing pedestrian permeability. I would suggest that extending the said proposed steps eastwards along the northside of the ramp would allow for this relatively narrow space (c.15m wide) to be visually and physically opened up through removal of the stub wall (railings are indicated in some landscaping drawings), further improving permeability through the space. It would be appropriate to attach a condition requiring the design of the junction between the two said ramps be revisited.
- 7.3.17. It is essential that the entirety of the vehicular access to the plaza from Phibsborough Road (including to the aforementioned right of way access ramp) be restricted by removable bollards - the area is currently used as an informal parking area. This should similar be so for the North Circular Road access. These issues could be addressed by condition.
- 7.3.18. **Existing forecourt** - The proposed development provides for no substantive changes or alterations to the layout and arrangement of the existing forecourt area to Phibsborough Shopping Centre, including car parking, pedestrian footpaths and access arrangements. It is proposed to repave the existing car parking area, but no improvements to pedestrian facilities are indicated on the drawings, although an

internal pedestrian crossing is indicated in the applicant's illustration booklet (Pedestrian Access: Proposed) submitted to the hearing. There are numerous pedestrian entrances (formal and informal) to the forecourt from Phibsborough Road and at the junction with Connaught Street, but pedestrians can also access via the vehicular exit to Connaught Street and there is a stepped access from off-Connaught Street lane.

- 7.3.19. Third parties and observers have raised concern about the existing pedestrian access into and through the existing forecourt area from Connaught Street and Phibsborough Road, which are unclear, poorly marked and obstructed by car parking spaces at certain points, and consequences for pedestrian safety. I consider these concerns to be reasonable. The universal design guidance recommends that '*a suitable, understandable and useable access route should be provided from the site entrance to the building entrance; from an on-site car park to the building entrance; and between buildings where there is more than one building on a site*' (p.44).
- 7.3.20. In response to questioning, Mark Turpin (17.01) submitted that the proposed repaving of the forecourt provides the opportunity to provide for pedestrian safety crossing, including yellow boxes and any element that can add to the safe crossing, but that hasn't been shown to date. It was explained on file that the existing number and arrangement of parking spaces is covered by covenants that prevent them being amended by the applicant. The provision of dedicated pedestrian crossings over the forecourt from the entrances would likely entail a loss of parking spaces. Tesco Ireland clarified to the hearing that they have rights over all parking at forecourt and podium level, in addition to two delivery entrances to the forecourt (one opposite Unit 11 and the other opposite Tesco food store, via removable bollards) from Phibsborough Road, such as would prevent the applicant from amending the forecourt layout without their agreement. At the hearing, Robert McLoughlin (17.03) indicated that Tesco would welcome improvements to the forecourt areas, but that they cannot be foisted on them but rather need to be subject of their agreement, having regard in particular to maintenance of the existing delivery access to the forecourt area, and that any condition requiring improvement to the forecourt area provides for same (17.07).
- 7.3.21. In response to Inspector's questions, the applicant indicated that they would be willing, in the event of a decision to grant permission, to accept conditions requiring

the provision of an internal pedestrian crossing from the existing pedestrian entrance from the Connaught Street / Phibsborough Road junction and also from Phibsborough Road (adjacent signalised pedestrian crossing) to the existing footpath adjacent the retail units. It may be appropriate to provide pedestrian crossings compliant with DMURS standards from the two aforementioned entrances to the footpath adjacent the shopping centre units. A demarcated pedestrian route should also be provided from the Connaught Street vehicular exit, to follow a logical pedestrian desire line through to the internal pedestrian footpath. It would be beneficial to revisit the layout / arrangement of the northern forecourt area in its entirety to improve pedestrian movements and safety and to improve the overall appearance to Connaught Street. I am satisfied that these issues can be suitably addressed by condition.

7.3.22. I would also note the proposal to provide structural support poles (for the student accommodation) projecting c.800mm into the existing pedestrian footpath in the forecourt area, reducing the usable pavement width to under 2m in parts. A reduction in the already rather poor pedestrian facilities would be contrary to the principles and provisions of DMURS which requires that centres promote pedestrian movement. In response to Inspector's questions, the John Wilson (16.59) indicated that it would be possible, but not without difficulty, to relocate the said supports behind the existing shopfronts. This is a design issue that should have been considered at the initial design stages, especially given the restrictions on amending parking and vehicular access to compensate for any encroachment on pedestrian facilities. Should the Board decide to grant permission, I would advise that a condition be attached prohibiting the location of any structures, including structural support pillars, etc., within or encroaching on the existing pedestrian pavements within or abutting the site.

7.3.23. **Dalymount Park** - In principle the provision of a new lane along the west of the site, providing access for Dalymount Park and between North Circular Road and Connaught Street (facilitated by the proposed development) is to be welcomed, as it has been by the parties and observers to the application / appeal. Third parties raised concern about the uncertainty that the lane will be provided. Pauline Byrne responded (16.21) that it is proposed to provide the lane subject to the existing lane being taken in charge by the Council. Brian Ward (16.22) indicated that taking-in-

charge procedures have commenced and the Council would be mindful to exercise CPO proceeding if needed; that providing for enhanced connectivity and permeability of the area in conjunction of the two adjoining developments is the policy of the Planning Department; that the proposed development would provide for part of the route and, in the event of the redevelopment of Dalymount Park the Council would pursue the completion of the route.

- 7.3.24. Gates are indicated on the southern side of the lane on the submitted plans. I consider this reasonable until as such time as Dalymount Park is redeveloped and / or the lane is opened up to Connaught Street. A condition should be attached requiring the details (standard of construction and finishes to the space) to be agreed with the Planning Authority prior to the commencement of development, and for the gates to be removed in their entirety and the said area taken in charge by the Council at the written request of the Planning Authority in order to facilitate a permanent public right of way (through route) between North Circular Road and Connaught Street.
- 7.3.25. There is little evidence of a coordinated design approach to the lane between the two parties (Dalymount Park is in the ownership of Dublin City Council), notwithstanding the sketch contextual drawings showing the future stadium, including the Landscape Planning Report 03/04/17, and the illustration booklet submitted to oral hearing. The former report refers to the lane as '*service vehicle access and service yard*' in its landscape strategy and indicates railings bounding the space. The latter document provides an indicative view of the 'interface' with the Dalymount Park site, which is more desirable (that the indicated service yard), but not necessarily ideal. However, the redevelopment of the Dalymount Park site is within the control of the Local Authority. It is evident that this strategic land bank would have benefitted from a detailed masterplan to guide its redevelopment, as was proposed under the previous and subsequent draft (not adopted) LAP, such as would have increased potential to develop economies of scale and maximise design connectivity (as suggested by Bohemian Football Club in its observation on the application).
- 7.3.26. I consider some details of the lane to be problematic. In particular, no active uses open onto the lane to stimulate street activity and pedestrian movements. A large portion of the new lane will be addressed by the side of the service yard, in addition to the existing podium car park entrance and rear of the office building and rear of

the supermarket, which present almost no fenestration and only service delivery activity. This is undesirable from a street design perspective and is contrary to the land use zoning objectives for KDC, which include the creation of a vibrant retail and commercial core with animated streetscapes (s.14.8.4, CDP). However, the existing and proposed commercial units will need to be serviced by deliveries and utilities and the proposed layout would remove the need to provide deliveries to the front of the shopping. Within the constraints of the site I can see no obvious alternative design options that would successfully accommodate service deliveries within a major redesign of the entire site and, accordingly, I would make no recommendations to amend the yard except that the details and design of the boundary treatment and service entrance to the lane should be agreed by condition with the Planning Authority to ensure that it is of an acceptable quality. There may be potential to relocate the ESB substation away from the lane to improve (albeit marginally) the visual impact on the lane – a substation was not proposed in this location in the initial site layout plan, but appeared as an amendment in the further information drawings. This can be addressed by condition.

7.3.27. The shortcomings on the application site could be alleviated by proposals on the Dalymount Park site. Don Daly (17.19) of the Council's CRES Department submitted to the hearing that there may be some opportunity in this regard within the future Dalymount redevelopment. However, Mr Daly did not indicate whether the draft plans, which are anticipated to be finalised plans from mid-June, make provision for active uses onto the lane.

7.3.28. On initial inspection the southern end of the lane is would appear to be provided with a reasonable level of passive surveillance, with significant fenestration provided at lane level (ground; and first floor is almost at street level) to student accommodation reception (ground) and meeting area (first floor). However, annotation on the drawings (Dwg No.P03_30 20/09/17; note 9) indicates that this glazing is proposed to be opaque/translucent glass, possibly (note 23) supported by metal sliding screens, which would omit any benefit in this regard. Mark Turpin further suggested to the hearing that it was intended to re-examine the said fenestration to avoid intrusion on the student accommodation facility on match days. It is essential that permanent passive surveillance to the lane is maximised to ensure it is perceived as

a safe route and to promote pedestrian movements and the nature and design of west-facing fenestration should be addressed by appropriate condition(s).

- 7.3.29. At upper floors there are no windows on the proposed west (lane-facing) elevation to the student accommodation blocks, although limited oblique overlooking of the lane would result from windows on the north / south elevations. At the hearing Mark Turpin (10.34) explained that fenestration was omitted from the west-facing elevations of the accommodation only to avoid visual intrusion on the proposed redeveloped stadium. Pauline Byrne (10.35) added that as the potential redevelopment of Dalymount Park was uncertain, especially at the early stages of planning the proposed development, it was decided to adopt a neutral face to the west, but also for the reason that the view of the back of the stands would not be appropriate for residential accommodation. It was also confirmed that no other party requested that no windows be provided to the upper levels of the said elevation.
- 7.3.30. . I do not consider overlooking the entrance and/or back of the stands of the future stadium to be likely to have a significant adverse impact on the amenities of the stadium. West-facing windows would provide increased passive surveillance of the lane, would reduce energy use within the development and would improve the appearance of the west-facing elevations and would result in no material increase in overlooking of residential properties. Should the Board decide to grant permission, a condition should be attached requiring provision of fenestration on the west elevation similar to that proposed on the east elevation (although additional fenestration to light internal hallways would also be welcome, in my opinion), the details of which should be agreed with the Planning Authority.
- 7.3.31. The proposed student accommodation blocks would overhang the proposed west lane by up to 5.5m (southern block, or 2.8m for northern), and has the potential to result in an oppressive and overshadowed space of limited amenity value. The aforementioned '*interface*' drawings suggest that the combined impact of the future stadium stand and the overhanging accommodation would result in poor access to sunlight and daylight along the lane. At the very least, I would advise that the western elevation of the southernmost block be setback eastwards by 3m, parallel to its proposed location, to alleviate the impact, and to improve the amenities of the proposed lane. This would potentially reduce 4no. 4-bed units to 3no. bed units -a loss of 12no. bedspaces but no change in the number of units. Should both blocks

be setback to align with the lane (excepting projecting bay windows as suggested above), similar to third floor level layout, 8no. 6-bed cluster units would be affected; and assuming a similar layout to third floor level, these would be replaced by 8no. studio units in the southern block and 4no. 4-bed units in the northern block - a loss of 24no. bedspaces, but an increase in 4no. units. This issue can be addressed by condition.

7.3.32. **Access from North Circular Road** – The autotrack drawings submitted by the applicant (NRB-ATR-001, Appendix 1 of Response to Appeal; Autotrack of Proposed 16.5m HGV Routes in *Illustration Booklet* submitted to hearing) clearly show that access by articulated HGVs will be very constricted at a number of points, including at the commencement of the subdivided area within the plaza, at the planting and cycle parking locations and between the east end of Dalymount Lane and the main steps within the civic plaza. I am not convinced this access is feasible in its current form and it would, in my opinion, be likely to result in a traffic hazard through the obstruction of other road users within and outwith the site. A 16.5m HGV entering from North Circular road would have to reverse out onto North Circular Road if it did not manage to align with the narrow entrance to the upper plaza. The narrowness and exact location of the narrow entrance would not likely be apparent to the driver until they had commenced the turning manoeuvre. Given the heavily trafficked nature of the North Circular Road and the intention for the entire civic space and ancillary areas to be pedestrianised and / or pedestrian priority, the potential traffic hazard is significant and warrants a revised design. This issue can be addressed by condition.

7.3.33. Condition 7(vi) of the permission requires '*The provision of articulated truck access to service Dalymount, including a turning area*'. This condition appears to have been attached to address concerns about HGV access raised by the Council's CRES Department (23/10/17). However, the CRES Department did not request provision of a turning area but raised concern about the ability of the access from North Circular Road to accommodate access by articulated HGV and the ability of the proposed lane to accommodate access by such vehicles through to Connaught Street. An additional turning area for articulated HGVs within the development is neither desirable from a planning perspective (excessive space demand) or from a

traffic safety perspective (redirecting traffic back through pedestrian plaza).

Condition 7(vi) should be omitted.

- 7.3.34. **Other transport issues** – A condition attached by the Planning Authority (10(iii)) refers to reservation line to Phibsborough Road to accommodate future improvements to the bus network. Such a condition, effectively requiring the ceding of land, is contrary to the Development Management Guidelines 2007, s.7.11 as unlawful. The offending condition should be omitted.

7.4. **Mix of uses**

- 7.4.1. **Retail / restaurant** - The initial application proposed 5no. new build retail units (A1 to A5) at ground / first floor levels, with the loss of 2no. smaller retail units in the existing shopping centre through conversion of unit 12 to improve accessibility and to accommodate a janitor / maintenance store, plus the partial demolition of unit 1 and its amalgamation with unit 2. The scheme was amended by further information submission to provide for restaurant / café use to units A2, A4 and A5 at ground and first floor level, at the request of the Planning Authority for the reason to encourage the creation of an '*evening economy*' (further information response item no.3). Either use is acceptable within the Z4 zoning. Given that there are existing restaurant / café uses within the shopping centre and the wider key district centre zoned lands, it is not necessarily desirable, in my view, that three of the units be limited to restaurant / café use. In this instance, given the location of the site, its accessibility (subject to improvements suggested elsewhere in my report) and the range of uses within the vicinity and proposed on site, retail use is acceptable for proposed units A1 to A5 inclusive. Should the Board grant permission, a condition should be attached allowing for retail use of the said units.
- 7.4.2. **Office** – Approximately 1370-sq.m office space is proposed within the North Circular Road building at levels 2 and 3. This is acceptable within the KDC and Z4 zoning.
- 7.4.3. **Residential / Student accommodation** – The applicant proposes 69no. student residential units of varying sizes (1no.-bed studio through to 8no.-bed units), with a total of 334no. bed-spaces. The grounds of appeal included the failure to provide a mixed-use residential accommodation and the absence of family units. Observers raised similar concerns regarding the over-concentration of short-term housing and

absence of suitable units for elderly local residents which might help free up larger family homes in the area through downsizing. Furthermore, observers suggested that the proposed development would contribute to the over concentration of student accommodation within the context of existing facilities and permitted facilities, claiming that 8000 student beds are proposed for this part of the city.

7.4.4. The Plan (s.14.8.4) requires that within the 8no. designated Key District Centres, of which Phibsborough is one, specific principles shall apply to proposed development over and above that applicable to Z4 district centres. These principles include: the establishment of '*significant residential population bases with diversity in unit types and tenures capable of establishing long-term integrated communities*' and '*high-density developments capable of sustaining quality public transport systems, [etc]*'. The report of the Council's Planning Officer did not explicitly address the issue of residential unit types and tenures, although Siobhan O'Connor (11.55) did address it indirectly in her submission to the hearing, submitting that the provision of purpose built student accommodation frees up family homes that would normally be rented out to students, with benefits for families. There is validity to this argument, but there is also validity to the position of third parties that were the development to provide suitable units for older people to downsize it would also free up homes for families in this old suburban area.

7.4.5. In response to Inspector's questions concerning the provisions for a mix of residential unit types, flexibility of same and mix of tenure types, DCC Senior Planner, Brain Ward submitted (17.29) that compared to other sites it was considered that this site, in particular, would lend itself better to student accommodation than other sites in the wider area, in that it is using air rights over an existing shopping centre that may not suit standard residential development quite as well. He submitted that arising from government policy and guidance to address the housing crisis, many of the standard residential developments coming forward have been in the form of build to rent and shared accommodation rather than standard residential. Mr Ward highlighted that in this area there are a number of permissions for significant standard residential developments, including at the Smurfit site and the Carnlough Road, Cabra, 400 units have been permitted under an SDZ and that there is already a mix in this area. I would accept that for practical purposes the achievement of a range of unit types and tenure may need to be viewed across a

wider area, or at least within the KCD Z4 zoned lands, rather than necessarily within individual sites. Given the size of the site it would, in my opinion, be in the interest of the sustainable development of the KDC to provide a wider range of residential unit types, but it would not be reasonable to require the applicant to do so at this stage of the planning process.

- 7.4.6. The Plan contains a number of policies supporting the provision of student accommodation (QH31 and CEE19(ii)), in particular on campus or in accessible locations adjacent to quality public transport. There is some inconsistency in the Plan in that student accommodation is specified as open for consideration only in one land use zone, Z15, however as residential use it may be considered permitted in principle in other land use zones including zone Z4.
- 7.4.7. The Plan (as varied) provides guidelines for student accommodation under s.16.10.7, indicating that the planning authority will have regard to the pattern and distribution of student accommodation in the locality and will resist the over concentration of such schemes in any one area, and applicants are required to submit a map showing all such facilities within 1km of a proposal. The third party (Phizzfest) and many observers claim that there is an over concentration of student accommodation permitted in this area, with Councillor Joe Costello (12.30+) claiming that 8000 student bedspaces are permitted / proposed between Dublin 7 and 1. I do not know this to be the case, however the Board will be aware of the significant numbers of cases concerning provision of student accommodation that have come before it over the last 5 years. S.16.10.7 of the CDP states that '*the planning authority will have regard to the pattern and distribution of student accommodation in the locality, and will resist the overconcentration of such schemes in any one area, in the interests of achieving a sustainable mix of development [...]*' in its assessment of proposals. No concerns were raised by the planning authority in this regard, or in the Planner's Report, which noted the contextual map of existing facilities within over 1km submitted by the applicant. The Development Plan provides no indication as to what might constitute overconcentration of student accommodation.
- 7.4.8. The said map illustrates that there are no such accommodations within 0.25km and 6no. facilities recently permitted within 1km (see planning history). The total number of permitted and / or existing bedspaces within 1km radius is not entirely clear, but it would seem to be in the region of 900-1000 bedspaces (all but one permitted in

2017, the other in 2015). It should also be noted that the Grangegorman SDZ, which envisages 1,500-2,000 student bedspaces (c.15% of DIT's fulltime students¹⁰), mostly within the 1km radius distance. This is not an insignificant level of development; however, the proposed development is located at a distance to the other said permitted / existing facilities and I do not consider it an overconcentration.

- 7.4.9. Adaptability or flexibility of residential units is a recurring theme running through the Plan, including under, inter alia, the Core Strategy (s.2.2.4.1 Local Economic and Community Plan; s.2.3.3 Promoting Quality Homes), Shape and Structure of the City (s.4.5.3.1 Urban Density), Quality Housing (s.5.3 Challenges; s.5.4 The Strategic Approach; s.5.5.4 Quality Housing for All), and it the policy of the Council (QH13) to ensure that all housing is designed to be adaptable and flexible, as set out in the Plan's *Residential Quality Standards* and with regard to s.5.2 of the *Quality Housing for Sustainable Communities, Best Practice Guidelines* (DEH&LG, 2007). Adaptability is also defined in the glossary as '*The potential to modify the spaces of a home by altering the fabric of the building to cater for the different needs of an individual's or family's life cycle (e.g. a study space becomes a bedroom; a living room area enlarges by merging with an adjacent room etc)*'. Another example of adaptability is referred to under the Plan (p.324) in respect of built-to-let schemes for mobile workers, which '*should be adaptable for future demographic needs of the city, e.g. by providing for the amalgamation of studios in a change of use scenario*'. The latter example would appear particularly pertinent to student accommodation.
- 7.4.10. Siobhan O'Conner SEP responded to questioning on this issue to the effect that adaptability / flexibility of the units was not one of the key considerations in the assessment but that the range of student units proposed provides for flexibility within the scheme itself. Whilst I do not accept that the range of student units can be considered compliant with the notion of flexibility under the Plan, nor that the proposed development could easily be adapted to standard residential units having regard to current Development Plan standards, I would note that adaptability / flexibility is not referred to specifically under s.16.10.7 Guidelines for Student Accommodation. Given this ambiguity and the fact that this issue was not raised by

¹⁰S.4.7.2 Distribution of Principal Land Uses

<http://www.dublincity.ie/sites/default/files/content//Planning/OtherDevelopmentPlans/LocalAreaPlans/Documents/GG%20Chapter04.pdf> (accessed 21/05/17).

the Planning Authority at any stage, it would be unreasonable to pursue this matter at this stage of the planning process, notwithstanding the provisions of policy QH13.

- 7.4.11. Over the course of the planning authority's consideration of the case it raised concern about the potential amalgamation of the proposed 8-bed student units to effectively 16-bed units (due to the proposed interlinking door) contrary to s.16.10.7 of the Plan limiting units to no more than 12-bedspaces. In its further information response, the applicant indicated that this door would be locked (fob access only) and was provided only to enable ease of maintenance during operations, which was acceptable to the planning authority. In response to questioning Pauline Byrne (17.34) that the applicant would be willing to accept a condition omitting the said doors, if the Board considered it necessary. I do not consider it necessary to attach such a condition in this instance.
- 7.4.12. **Retention of gym use** – Gym use is not defined within the Development Plan, however based on references to gym use in Chapter 10 Green Infrastructure, Open Space and Recreation, I am satisfied that it falls within the scope of cultural / recreational building and is permitted in principle within the Z4 zone. The retention of gym use at first floor level within the existing shopping centre complex is acceptable.
- 7.4.13. **Cultural / social facilities** – Phizzfest and some observers objected to the absence of any cultural or social facilities or space proposed within the development. The applicant indicated to the hearing that it did not favour the imposition of any condition that might restrict the use of any commercial or other space within the development to such a use. The applicant submitted that the proposed development provides significant community gain in the form of the civic space, environmental upgrades and positive visual impact on Phibsborough village. In respect of suggestions by the third party and / or observers that contribution conditions be ringfenced for use within the Phibsborough area, Brian Ward (16.30) submitted that this could not be done under the Development Contribution Scheme and current legislation providing for same.
- 7.4.14. **Conclusion** - On balance consider the proposed mix of uses to be acceptable on this Key District Centre zoned Z4.

7.5. Contributions

- 7.5.1. Contribution conditions apply under the S.48 Development Contribution Scheme and under the S.49 LUAS Cross City Scheme. Neither condition is subject of appeal. In the event that the Board decides to grant permission subject to amendments, the Board may attach standard unspecified-sum conditions in this regard, and other may attach conditions to the sums calculated by the Planning Authority.

8.0 Appropriate Assessment:

- 8.1. The applicant submitted with the application an Appropriate Assessment Screening Report (AASR) prepared by Brady Shipman Martin and carried out by consultant ecologist, Matthew Hague CEnv MCIEEM, which concluded that there no effect on habitats and species listed as 'Qualifying Interests or Special Conservation Interests' in any European site, with no risk of significant negative effects on any European site as a result of the proposed project, alone or in-combination with other plans or project and that Appropriate Assessment and submission of a Natural Impact Statement was not required. I could find no evidence that the Planning Authority carried out appropriate assessment screening.
- 8.2. The proposed development is not located within or adjacent to any European site and will not therefore have any direct impacts on a European site. According to the AASR the site is not covered by any wildlife or conservation designation and the no rare, threatened or legally protected plant species are known to occur within the site, and no habitats of significant ecological value were found to be present and it can be concluded that no significant effects on the integrity of a European site through impact on qualifying interests linked to but located outside the site.
- 8.3. I would concur with the AASR that the relevant European sites are South Dublin Bay SAC Site No.000210 (c.5km to southeast), North Dublin Bay SAC Site No.000206 (c.6km to east), South Dublin Bay and River Tolka Estuary SPA Site No.004026 (c.3km to the east) and North Bull Island SPA Site No.004006 (c.6km to the east) on the basis that they are the only site potentially linked to the proposed development by way of the water pathway.

8.4. It is reasonable to conclude that on the basis of the information on the file, which I consider 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 Site No.000210 South Dublin Bay SAC, European Site No.000206 North Dublin Bay SAC, European Site No.004026 South Dublin Bay and River Tolka Estuary SPA, and European Site No.004006 North Bull Island SPA or any other European site, in view of those sites' Conservation Objectives, and a Stage 2 Appropriate Assessment (and submission of a NIS) is not therefore required.

9.0 Recommendation

9.1. I recommend that permission be **GRANTED** subject to the conditions set out under section 10.0.

10.0 Reasons and Considerations

Having regard to the zoning objective, Z4 '*To provide for and improve mixed-services facilities*' and to the designation of the site as a Key District Centre, it is considered that, subject to compliance with the conditions attached below, the proposed development would be generally consistent with the provisions, policies and objectives of the Dublin City Development Plan 2016-2022 and with the proper planning and sustainable development of the area and would not seriously injure the amenities of property in the vicinity.

11.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application as amended by the further plans and particulars submitted on the 29th day of September 2017, and details and drawings submitted to the Board on 3rd May 2018, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the

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

Reason: In the interest of clarity.

2. The proposed mesh cladding, capping and associated support structures to the existing office tower and to the existing 2-storey structure to the north shall be omitted from the development.

Reason: In the interest of architectural and visual amenity.

3. (a) Prior to the commencement of development the developer shall agree a scheme for the reorganisation of existing authorised (and/or exempted) and potential future telecommunications equipment attaching to the existing buildings and structures on site, which shall be implemented at the developer's own expense.

(b) The scheme agreed under part (a) of this condition shall be implemented for all authorised telecommunications equipment (or such equipment constituting exempted development) prior to the first occupation of any of the proposed units within the development.

(c) Nothing in this decision shall be taken as authorising any existing unauthorised telecommunications equipment on this site.

Reason: In the interest of visual amenity.

4. (a) Prior to the commencement of development, the developer shall submit full details and drawings (a landscape scheme) of all boundary treatments, landscaping and planting within the development for the agreement of the planning authority.

(b) Landscaping and planting shall be implemented fully in the first planting season following completion of the development, and any trees or shrubs which die or are removed within 3 years of planting shall be replaced in the first planting season thereafter. The landscape scheme shall have regard to the Council's *Guidelines for Open Space Development and Taking in Charge*.

Reason: In the interests of amenity, ecology and sustainable development.

5. Prior to the commencement of development, the applicant shall submit fully revised drawings and details, for the written agreement of the Planning Authority, revising the design of the proposed civic plaza, including access to/from the surrounding public roads and to/from Dalymount Park and to/from Dalymount Lane, which shall:

- (a) comply with '*Buildings for Everyone: A Universal Design Approach. External Environment and Approach 1*' (NDA Centre for Excellence in Universal Design, 2012), including, in particular the requirements to avoid barriers and to minimise travel distances (such as that created and increased by the proposed stepped arrangement of the space);
- (b) provide for safe crowd access/egress requirement to/from the site of the existing / future-redeveloped Dalymount Park stadium (the proposed stepped arrangement is in conflict with this requirement);
- (c) provide for safe articulated HGV access from North Circular Road (the proposed subdivided and stepped arrangement of the space does not provide sufficient space for HGV to manoeuvre safely into the site and any subdivision of this space would need to be setback in a northerly direction);
- (d) provide permanently open pedestrian access to / from Dalymount Lane to / from the development site;
- (e) omit the wall structure(s) to the north of the ramped access (ESB right of way) from Phibsborough Road to the civic plaza, and to continue the stepped arrangement along the northern perimeter of the ramp, except where an alternative design arrangement is agreed with the planning authority;
- (f) provide for prevention of vehicular traffic through the civic space generally, except on an agreed occasional basis;
- (g) provide for publicly accessible bicycle parking to the standard required by the planning authority within the proposed civic space and / or ancillary spaces;

Reason: To ensure that the public space within this development is

accessible and safe, in compliance with Council policy SN29, and to avoid creation of a traffic hazard.

6. (a) The space to the west of the proposed student accommodation building and service yard shall form part of an open through-route for pedestrian and bicycles between North Circular Road, Dalymount Lane, Connaught Street and Phibsborough Road, that shall be provided in conjunction with the redevelopment of Dalymount Park lands to the west of the development site, the details of which, including the date at which the through-route is opened / commissioned, shall be agreed with the planning authority prior to the commencement of development;
- (b) On completion and commissioning of the through-route (referred to in part (a) of this condition), the gates at the southern end of the lane, and any other similar obstructions shall be permanently removed;
- (c) Prior to the commencement of development the applicant shall submit, for the written agreement of the planning authority, revised details and drawings showing the proposed service yard electricity substation and switch rooms relocated away from the laneside boundary.

Reason: To provide for, improve and promote pedestrian and passive transport movements and permeability through the site.

7. Prior to the commencement of development the applicant shall submit revised details and drawings for the written agreement of the planning authority amending the development as follow:
 - (a) The western elevations of the 2no. student accommodation blocks shall be setback to align with that of the ground and first floor levels second floor level, except for any projecting fenestration elements required under part (b) of this condition.
 - (b) The western elevations of the 2no. student accommodation blocks shall be amended to incorporate fenestration on each level from second floor to seventh floor levels, inclusive, similar to that proposed on the east-facing elevations.
 - (c) The west facing elevations to the 2no. student blocks shall be finished in

brick similar in quality and pattern to that proposed on the east-facing elevations.

(d) All glazing to the western elevations, from ground through to seventh floor level shall be fitted and maintained with clear glazing only and the glazing shall not be obscured by screens or other such devices as would reduce passive surveillance of the area to the west of the building.

Reason: To provide for, improve and promote pedestrian and passive transport movements and permeability through the site.

8. Prior the commencement of development, the applicant shall submit for the written agreement of the planning authority, details and drawings of the revised proposals for the resurfacing and layout of the existing shopping centre forecourt to the east and north of the shopping centre, which shall accord with the principles, standards and guidelines set out in the *Design Manual for Urban Roads and Streets* (DTTS and DECLG, 2013), to include:

(a) Arrangement and material surfacing to parking spaces, pedestrian paving and vehicular access lane through the forecourt;

(b) Three pedestrian access routes shall be provided between the public footpath bounding the site and the internal pedestrian footpath to the shopping centre – at the entrance from Connaught Street, at the entrance from the junction of Phibsborough Road / Connaught Street junction, and from adjacent (approximately) the pedestrian crossing to Phibsborough Road, the design of.

(c) The support structures to the student accommodation buildings shall be relocated entirely outside the width of the existing pedestrian footpath adjacent the shopping centre building.

Reason: To improve pedestrian facilities and safety within the site and promote pedestrian movements in Phibsborough Key District Centre.

9. (a) Prior to first occupation of any unit, the rear service yard, inclusive of an appropriate accessible delivery service lift to rear of Tesco Ireland Ltd unit indicated in '*proposed plan*' (Tesco Servicing, in '*Summary of Proposed Development*' booklet submitted by the applicant on 03/05/18), shall be

provided and be fully operational and accessible to all commercial units within the extended shopping centre building.

(b) The access route between the service yard / loading area and the existing service lane /escape lane to the rear of units 2 to 11 shall be amended to a slope (in lieu of proposed steps) and the corridor widened to at least 1.8m (except where the planning authority agrees that this is not feasible) to facilitate service deliveries via the service yard.

Reason: To facilitate service deliveries to the rear of commercial units via the service yard.

10. (a) No construction or site preparation work may be carried out on the site until all archaeological requirements of the City Archaeologist are complied with.

(b) No works to which this application relates shall commence until an appropriate programme of historic building recording and analysis has been secured in accordance with a written scheme of investigation.

(c) The project shall have an archaeological assessment (and impact assessment) of the proposed development, including all temporary and enabling works, geotechnical investigations, e.g. boreholes, engineering test pits, etc., carried out for this site as soon as possible and before any site clearance/construction work commences. The assessment shall be prepared by a suitably qualified archaeologist and shall address the following issues:

(i) The archaeological and historical background of the site, to include industrial heritage;

(ii) A paper record (written, drawn, and photographic, as appropriate) of any historic buildings and boundary treatments, etc;

(iii) The nature, extent and location of archaeological material on site by way of archaeological testing &/or monitoring of the removal of overburden;

(iv) The impact of the proposed development on such archaeological

material.

(d) The archaeologist shall forward their Method Statement in advance of commencement to the City Archaeologist.

(e) Where archaeological material is shown to be present, a detailed Impact Statement shall be prepared by the archaeologist which will include specific information on the location, form, size and level (corrected to Ordnance Datum) of all foundation structures, ground beams, floor slabs, trenches for services, drains etc. The assessment shall be prepared on the basis of a comprehensive desktop study and, where appropriate/feasible, trial trenches excavated on the site by the archaeologist and/or remote sensing. The trial trenches shall be excavated to the top of the archaeological deposits only. The report containing the assessment shall include adequate ground-plan and cross-sectional drawings of the site, and of the proposed development, with the location and levels (corrected to Ordnance Datum) of all trial trenches and/or bore holes clearly indicated. A comprehensive mitigation strategy shall be prepared by the consultant archaeologist and included in the archaeological assessment report.

(f) No subsurface work shall be undertaken in the absence of the archaeologist without his/her express consent. The archaeologist retained by the project to carry out the assessment shall consult with the City Archaeologist in advance regarding the procedure to be adopted in the assessment.

(g) A written and digital report (on compact disc) containing the results of the archaeological assessment shall be forwarded on completion to the City Archaeologist. The City Archaeologist (in consultation with The National Monuments Service, Department Arts Heritage and Gaeltacht, shall determine the further archaeological resolution of the site.

(h) The developer shall comply in full with any further archaeological requirement, including archaeological monitoring, and if necessary archaeological excavation and/or the preservation in situ of archaeological remains.

(i) The applicant shall make provision for archaeological excavation in the project budget and timetable.

(j) Before any site works commence the applicant shall agree the foundation layout with the City Archaeologist.

(k) Following submission of the final report to the City Archaeologist, where archaeological material is shown to be present the archaeological paper archive shall be compiled in accordance with the procedures detailed in the Dublin City Archaeological Archive Guidelines (2008 Dublin City Council), and lodged with the Dublin City Library and Archive, 138-144 Pearse Street, Dublin 2.

Reason: In the interest of preserving or preserving by record archaeological material likely to be damaged or destroyed in the course of development.

11. The proposed development shall be used only as student accommodation, or accommodation related to a Higher Education Institute, during the academic year; and as student accommodation, or accommodation related to a Higher Education Institute or tourist/visitor accommodation only during academic holiday periods. The development shall not be used for the purposes of permanent residential accommodation, as a hotel, hostel, apart-hotel or similar use without a prior grant of permission.

Reason: In the interests of the proper planning and sustainable development of the area

12. Retail units A2, A4 and A5 shall be limited to use for retail/café or for use as a shop.

Reason: To allow for appropriate flexibility of use within Phibsborough Key District Centre, in the interest of proper planning and sustainable development.

13. With regard to the ongoing use of Dalymount Park during the construction and operational phases of the development, prior to the commencement of development the applicant shall submit, for the written agreement of the planning authority, full details and drawings of the following:

(a) the maintenance of continued access to water pump on the application

site;

(b) repositioning of floodlights on DCC land;

(c) Continued maintenance of ambulance entry during matches;

(d) Construction works to take account of games in Dalymount Park;

(e) Safe separation of the Dalymount pitch from the application site;

(f) Safe and accessible access and egress to / from Dalymount Park by articulated heavy goods vehicle.

Reason: In the interest of orderly development and the amenities of the area.

14. (a) Prior to the commencement of development on site the application shall agree in writing full details of all signage and lighting proposals on site. These details should ensure that the lettering on the existing retail units shall be no greater than 300mm in height, shall be individually mounted and shall be backlit and all lettering on the new commercial units shall be no greater than 400mm in height, shall be individually mounted and shall be backlit. No logos shall appear on the fascia. Details of lighting proposed for the glazed cube shall also be submitted.

(b) The height of the banners (3no.) at the North Circular Road entrance shall be reduced to no more than 4 metres in height and their exact location shall be agreed in writing with the planning authority prior to the commencement of any development on site.

Reason: To protect the amenities of the area, including protected structures and the Architectural Conservation Area.

15. No additional development shall take place above roof level, including lift motors, air handling equipment, storage tanks, ducts or other external plant other than those shown on the drawings hereby approved, unless authorised by a prior grant of Planning Permission.

Reason: To safeguard the amenities of surrounding occupiers and the visual amenities of the area in general

16. Prior to the commencement of development, details of the materials, colours and textures of all the external finishes to the proposed development shall be submitted to and agreed in writing by the Planning Authority. A panel of the proposed finishes to be placed on site to enable the planning authority to adjudicate on the proposals. Any proposed render finish to be self-finish in a suitable colour and shall not require painting. Construction materials and detailing shall adhere to the principles of sustainability and energy efficiency and high maintenance detailing shall be avoided.

Reason: In the interests of orderly development and the visual amenities of the area.

17. (a) Drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works.

(b) Water supply and wastewater arrangements shall comply with the requirements of Irish Water.

Reason: To ensure adequate servicing of the development, and to prevent pollution.

18. Public lighting shall be provided in accordance with a scheme, which shall include lighting along pedestrian routes through open spaces, the details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Such lighting shall be provided prior to the making available for occupation of any unit.

Reason: In the interests of amenity and public safety.

19. Construction and demolition waste shall be managed in accordance the '*Construction and Demolition Waste Management Plan*' (appendix B of Construction Management Plan) submitted with the application, except where otherwise required by the planning authority.

Reason: In the interest of sustainable waste management

20. Operational waste shall be managed in accordance with the '*Operational Waste Management Plan*' submitted with the application, except where

otherwise required by the planning authority.

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

21. (a) The site and building works required to implement the development shall only be carried out between the hours of: Mondays to Fridays - 7.00a.m. to 6.00p.m. Saturday - 8.00a.m. to 2.00p.m. Sundays and Public Holidays - No activity on site.

(b) Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from Dublin City Council. Such approval may be given subject to conditions pertaining to the particular circumstances being set by Dublin City Council.

Reason: In order to safeguard the amenities of adjoining residential occupiers.

22. (a) At the vehicular access point to the development along the North Circular Road and at any other vehicular access points to the site (occasional or otherwise), the public footpath shall be continued at a raised level across the site entrance and exit, but shall be ramped and dropped as necessary (e.g. 32mm kerb over carriageway) to facilitate car-entry/exit. Measures shall be implemented, including contrasting materials, signing, and road marking, etc. to ensure that vehicles entering/leaving the development are aware that pedestrians/cyclists have priority across the site entrance and that vehicles must yield right-of-way. Details shall be agreed in writing with the Environment and Transportation Department prior to commencement of the development.

(b) Prior to the commencement of development all works proposed on the public road, shall be subject to written agreement and approval from the Environment and Transportation Department. Any works to the existing public road and the public realm road and footpath modifications, signage shall be carried out at the applicant's expense at no cost to Dublin City Council and to the detailed requirements of the Environment and Transportation Department.

(c) The proposed new civic space, footpaths, and hard landscaping areas to be taken in charge including all materials and public lighting shall be agreed in writing with the Environment and Transportation Department prior to commencement of development. All materials should be in accordance with the document Construction Standards for Roads and Street Works in Dublin City Council.

(d) The applicant shall undertake to implement the measures outlined in the Student and Mobility Management Plans and to ensure that future tenants of the proposed development comply with the plans. A Mobility Manager for the overall scheme shall be appointed to oversee and coordinate the preparation of individual plans.

(e) A project traffic management plan for all stages of construction traffic shall be agreed in writing with the Environment and Transportation Department before demolition, excavation and construction commences. The plan shall detail access arrangements for labour, plant and materials and shall indicate the locations of plant and machine compound.

(f) All cycle parking shall be the Sheffield stand or similar allowing the frame and wheel to be locked and be located in a secure sheltered cycle compound with adequate lighting and convenient access to the street.

(g) All costs incurred by Dublin City Council, including any repairs to the public road and services necessary as a result of the development, shall be at the expense of the developer.

Reason: To ensure an adequate standard of development

23. The developer shall comply with the requirements set out in the Codes of Practice from the Drainage Division, the Roads Streets and Traffic Department and the Noise and Air Pollution Section.

Reason: To ensure a satisfactory standard of development.

24. Prior to the commencement of development, the developer shall lodge with the planning authority a cash deposit or a bond of an insurance company/bank (a) to secure the satisfactory maintenance, completion and any reinstatement of services/infrastructure currently in the charge of

Dublin City Council, including roads, open spaces, car parking spaces, public lighting, sewers and drains; and/or (b) to secure the satisfactory completion of services until taking in charge by a Management Company or by the Local Authority of roads, footpaths, open spaces, street lighting, sewers and drains to the standard required by Dublin City Council. The form and amount of the security shall be as agreed between the planning authority and the developer, coupled with an agreement empowering the planning authority to apply such security or part thereof. In the event that land to be used as open space is taken in charge, the title of any such land shall be transferred to Dublin City Council at the time of taking in charge.

Reason: To achieve a satisfactory completion of the development.

25. The developer shall pay to the planning authority a financial contribution in respect of LUAS Cross City (St. Stephen's Green to Broombridge Line) 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.

26. 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

John Desmond
Senior Planning Inspector

14th June 2018