



An
Bord
Pleanála

Inspector's Report ABP300873-18

Development	Refurbishment of 8 storey building (Protected Structure – former Carroll's Building), to include change of use from Office to Café/Restaurant at basement and ground level. Demolition of 3 warehouses to the rear and the construction of part 3, 4, 5 and 6 storey building with car parking and bicycle parking together with ancillary works.
Location	2 Grand Parade, Dublin 6 D06 CX34.
Planning Authority	Dublin City Council.
Planning Authority Reg. Ref.	2373/17.
Applicant	Grand Parade Property Trading Company.
Type of Application	Permission.
Planning Authority Decision	Grant.
Type of Appeal	Third Party -v- Grant.

Appellants

1. Irene Taylor, Suzi Taylor and Others.
2. Elisabeth Vanderberghe.
3. Terry Reid and Others.
4. Alexander and Joseph Kearney.
5. John Conway and Orlaith McCarthy.
6. Caitriona and Patrick Shaffrey and Ben and Tatiana Hurley.
7. Upper Leeson Street Area Residents Association.
8. Muiris O'Dwyer and Helena Kelly.
9. Sinead and Rommey Keane.
10. Grace Maguire and John Ryan.

Observer(s)

- (i) Margaret Coyle.
- (ii) John and Josianne Bullows.

Date of Site Inspection

26th June, 2018.

Inspector

Paul Caprani.

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1.0 Introduction

ABP300873-18 relates to multiple third party appeals against the decision of Dublin City Council to issue notification to grant planning permission for the refurbishment and alterations of an 8-storey building (former Carrolls building) together with a change of use from office to café/restaurant at basement level. Permission is also sought for the demolition of three warehouses and the provision of a 3 to 6-storey office building over two levels of basement including underground car parking to the rear of the Carrolls building together with ancillary works at No. 2 Grand Parade, Dublin 6. A total of 10 third party appeals were submitted together with a number of observations all of which objected to the proposed development on various grounds relating to, the impact of the proposal on existing protected structures, including the former Carroll's Building fronting onto the Grand Canal and Protected Structures in the adjoining Dartmouth Square which is also a designated Architectural Conservation Area. Concern is also expressed that the proposed new office element will have an adverse impact on adjacent residential amenity through its size and scale. Various other issues were raised including procedural, parking traffic and transport issues as well as Drainage concerns. An oral hearing was held in the offices of An Bord Pleanála, in respect of the proposal on 12th and 13th July, 2018.

2.0 Site Location and Description

- 2.1. The appeal site covers an area of 5,760 square metres (0.576 hectares). It fronts onto Grand Parade and the Grand Canal along its northern boundary. It has a road frontage of c.64 metres onto Grand Parade. The site extends to a total depth of 130 metres with frontage onto Dartmouth Road to the south. The Luas Green Line runs along the western boundary of the site at an elevated level (it sits on the former Harcourt Street railway line). Charlemont Luas station is located adjacent to the north-eastern corner of the site. Houses fronting onto Dartmouth Place are located on the eastern side of the Luas line. The rear gardens of the housing facing onto Dartmouth Square West back onto the eastern boundary of the site. A narrow laneway separates the rear gardens of the dwellings from the eastern boundary of

the site. This laneway is not open to the public and is somewhat overgrown. All the dwellings fronting onto Dartmouth Square are protected structures including the dwellings adjacent to the site at Dartmouth Square West (1 – 18). The square is also designated as an Architectural Conservation Area.

- 2.2. The site itself accommodates the former Carrolls building at 2 Grand Parade. This building was built in the early 1960s (1962-64) and has been added to the Record of Protected Structures. It was subsequently occupied by Irish Nationwide and more recently by Amazon. The building was commenced in 1962 and formerly opened in 1964. It is listed on the Record of Protected Structures as it is considered to be one of the finest example of a building designed in the modernist style in the country.
- 2.3. An application for the refurbishment of the building to cater for the offices of Irish Nationwide was granted on appeal by An Bord Pleanála in 1995. Much of the original interior was altered as a result of this grant of planning permission.
- 2.4. The building is rectangular in plan and incorporates an undercroft supported by pillars/Pilotis at ground floor level. The upper floors incorporate five bands of glazing on the Canal elevation which are separated by narrower bands of Portland stone cladding. A similar exterior elevation is incorporated into the rear façade but the glazed area is slightly recessed. A number of more recent poorer quality single-storey extensions are attached to the rear of the building. The ground floor and first floor of the western side of the façade are obscured by the elevated Luas line which runs contiguous to the western boundary of the site. The upper floors of the west façade comprise mainly of blank Portland stone cladding with a single-storey bay of windows at the north end of the façade. The eastern side façade incorporates more extensive glazing set within Portland stone cladding. The glazed area along the eastern façade exposes an internal staircase within the building. A more comprehensive detailed description of the building is contained in the conservation report submitted with the application by James Slattery, Conservation Architect.
- 2.5. There are also a number of derelict and disused sheds to the rear of the site. These single-storey sheds are for the most part, in a sorry state of disrepair. According to the information contained in the conservation report, the buildings formally form part of the McLoughlin and Harvey building works to the south which face onto Dartmouth Road. They formally provided a workshop and storage area. The three sheds are

located centrally within the rear of the site. They comprise of basic concrete construction plus the most northern shed to the immediate rear of the Carrolls building incorporates a pitched corrugated iron roof. The middle shed incorporates a flat roof while the shed to the rear has had its roof removed. There are a number of single-storey plant rooms and other structures attached to the most northerly of these sheds.

- 2.6. A large two-storey structure to the rear of the site, adjacent to Dartmouth Road was the subject of separate but concurrent application for residential development. This application was subsequently withdrawn.
- 2.7. The buildings to the rear of the site are surrounded by hardstanding areas some of which have been laid out to accommodate surface car parking.

3.0 Proposed Development

- 3.1. The development underwent a series of small iterations and revisions on foot of additional information request from Dublin City Council during the course of determining the application by the local authority. The final scheme granted by Dublin City Council is described below.
- 3.2. Planning permission is sought for the refurbishment and to provide some alterations to the former Carrolls building, the 8-storey protected structure located in the northern part of the site fronting directly onto Grand Parade. The proposed alterations are as follows:
 - The closing up of two opes at basement level.
 - The reinstatement of external hard landscaping works, including the reinstatement of shallow pools at ground floor level in and around the undercroft area of the building.
 - The upgrading and remodelling of the stair core in order to comply with current building regulations throughout the building.
 - The reinstatement of the original undercroft to the building.

- The removal of the non-original internal fit outs of floors 1 – 7. These internal fit outs do not relate to the original fabric of the building but were incorporated as part of the 1995 grant of planning permission.
- The replacement of the external façade glazing system to be replaced with a contemporary equivalent.
- The demolition and removal of a single-storey extension to the rear which does not form part of the original building fabric.
- The removal of existing plant at roof level and the incorporation of additional windows at penthouse level near the western side of the building.

For full details of the alterations proposed please refer to the conservation report prepared by David Slattery and drawings D1109 to D1118 with the drawing submitted as part of the original application.

3.3. It is proposed to demolish three existing sheds to the rear of the site and construct the following:

- A new office development to the rear of the Carrolls building comprising of a part 3, 4, 5 and 6 storey office development together with two basement levels. The proposed office development gradually steps down in height from the north of the site to the south. The 6-storey element closest to the former Carroll's building is to be linked to the existing building by an 8-storey extension core in the form of a glazed atrium which rises to a height of 29.26 metres (reduced from over 30.5 metres). The existing building rises to a maximum height of 32.76 metres but the height of the main part of the building is 28.8 metres. The building progressively steps down in height southwards across the site.
- The 6-storey element rises to a height of 23.495 metres. The 5-storey element rises to a height of 20.733 metres. The 4-storey element rises to a height of 16.42 metres while the 3-storey element which is located on the eastern side of the building rises to a height of 11.6 metres.

3.4. The proposed new office accommodation is to incorporate the following external finishes.

- A glazed curtain wall for the glazed atrium area linking the proposed office building to the existing protected structure.
- Bronze anodised aluminium glazing with anodised aluminium fins along the lower elevations.
- The upper floor of the 6-storey element is also to incorporate glazed curtain walls similar to that associated with the glazed link between the two buildings.
- The external finishes are depicted in the photomontages and drawings submitted with the application.
- The footprint of the proposed 3 – 6 storey office block is located closest to the western boundary of the site between c.1.2 metres and 6 metres from the adjacent Luas line. On the eastern side of the site the building is setback further from the common boundary between 15 and 30 metres from the said boundary and between 30 and 46 metres from the rear of the dwellings fronting on Dartmouth Square West. The western portion of the site is also to accommodate an access road providing vehicular access off Grand Parade. An entrance is also provided at the south-eastern corner of the site onto Dartmouth Road. The western portion of the site is also to accommodate incidental landscape areas and some surface car parking.

3.5. In terms of proposed land uses:

Permission is sought for a change of use of the ground floor of the protected structure from office to café/restaurant use at basement and ground floor level.

Permission is also sought for the provision of a gallery and multi-purpose space at first floor level within the protected structure.

In the new build to the rear it is proposed to provide a plant room at subbasement level and car parking (30 spaces) and cycle parking (126 spaces) together with additional plant at basement level. The remainder of the building to the rear is to incorporate open plan office space. A terraced area is also provided at fourth floor level to the rear of the new office block.

4.0 Planning Authority's Decision

4.1. Decision

In its decision dated 17th January, 2018 Dublin City Council issued notification to grant planning permission for the proposed development subject to 18 conditions.

4.2. Documentation Submitted with the Application

The application was submitted to Dublin City Council on 2nd March, 2017. It was accompanied by the following documentation.

A planning report prepared by John Spain and Associates Town Planning Consultants. This report describes the site location and description and a description of the proposed development (see sections above). Details of the planning history relating to the site and details of the pre-application consultations that were undertaken in respect of the proposed development. The report goes on to outline the local planning policy context as it relates to the site including the various guidelines and provisions contained in the Dublin City Development Plan (see section 9 below in my report). It also assesses what are considered to be the key planning issues as it relates to the site. It concludes that the proposed development is fully in accordance with national and regional planning policy and that the subject site represents a vacant underutilised and undeveloped site in an appropriate urban location which is suitable for the quantum of development proposed in this instance.

An ***Architectural Design Statement by Henry J. Lyons*** was also submitted. It likewise sets out details of policies contained in the Dublin City Development Plan as they relate to the site and also sets out details of the planning history and the existing buildings on site. Details of the design approach are elaborated upon. It argues that the scale and massing are carefully considered to ensure that the new structures are designed to be subordinate to the existing protected structure. The report also sets out details of the proposed intervention to the existing building and sets out details of the proposed remodelling works to the glazed panels on the façade. Details of the treatment of the public realm are also set out in the document. The proposal also provides details of the façade treatment to the new build. The design statement also includes a daylight and sunlight analysis which concludes that

the ground floor windows on the existing dwellings at Dartmouth Square are capable of receiving adequate sunlight after the construction of the proposed development. It is stated that the proposed development to the rear of the protected structure will result in a moderate change to the visual character and setting of the protected structure and the architectural conservation area at Dartmouth Square. The final section of the report sets out details in respect of energy uses, security and management structures, waste management, accessibility and vehicle management. A schedule of accommodation is also contained in the rear of the statement.

A **Visual Impact Assessment** was also submitted. The proposed development was assessed from 15 vantage points and the quality of impacts are described as being either 'positive' or 'neutral' and the significance of the impacts are described as being from 'imperceptible' to 'moderate'. The report suggests that the proposal will result in a positive change to the appearance of the protected structure.

Also submitted was a **Photomontage Brochure** which assesses the visual impact of the proposed office development in conjunction with the proposed residential element on the adjoining site fronting onto Dartmouth Road (now withdrawn) which is not the subject of the current application. Two separate photomontage reports were submitted. One specifically assessing the impact of the office development while a separate photomontage report was submitted assessing the impact on both the office and residential development.

The Infrastructure Design Report sets out details of:

- A *Flood Risk Assessment*, it concludes that the guidelines indicate that the type of development proposed is appropriate for flood risk zone C. Therefore, in accordance with the sequential approach, the site will need to mitigate any residual flood risk and further detail of the surface water management of the site is included in Section 5 of the report. Details are also provided in respect of the road layout.
- In relation to *Drainage* it states that Dublin City Council records identify an existing 710 mm brick combined sewer that passes through the middle of the site. It states that the existing site appears to have three combined connections, two into a 600 millimetre culvert which runs within the site and one connection to the sewer in Dartmouth Road. The existing connection into

Dartmouth Road would be reused if possible. The two connections within the site would be demolished as part of the works. Due to the proposed office building the large U-shaped sewer will need to be diverted around the development.

- Section 5 of the report sets out details of the *surface water drainage*. In accordance with the GSDS it is proposed to provide sustainable urban drainage systems for the management of stormwater from the facility. The surface water network attenuates runoff and site levels are designed to accommodate a 100-year storm event including climate change provision.
- Finally, the report sets out details of the *foul drainage* and *water supply* and distribution. It states that the water layout and details are in accordance with Irish Water Codes of Practice.

4.2.1. A ***Transport Statement*** sets out details of the receiving environment, the proposed development and the policy framework and network impact arising from the proposed development. It concludes that the site is positioned within the urban environment to maximise access to and from the site by sustainable forms of travel including walking, cycling and public transport. The site also benefits from excellent public transport infrastructure. The subject site is predicted to generate only 30 two-way vehicle trips during both the AM and PM peak hours. This will not result in any material deterioration of the network.

4.2.2. A ***Framework Mobility Management Plan*** was also submitted. This report sets out initiatives and a framework plan to ensure that the mobility management plan is deliverable and implemented fully. The plan identifies a total of 62 initiatives across 6 sub-strategies to be implemented in order to avail of public transport and more sustainable transportation modes.

4.2.3. A ***Demolition and Construction Management Plan*** was submitted. It sets out details of the traffic management, the demolition and construction methodology that would be used in removing existing buildings on site and sets out a detailed methodology for working adjacent to the Luas line. A *design risk assessment* is contained in Appendix A.

4.2.4. A ***Landscape Design and Access Report*** was submitted. It sets out details of the existing landscape, the principle landscape proposals and hard and soft landscaping

strategy. The proposal also provides details of the lighting strategy and the roof terrace landscaping and biodiversity roof proposals.

4.2.5. The details of an **Architectural Heritage Assessment** was also submitted. The report sets out details of the existing protected structure on site, including the alterations incorporated into the building under the previous application in the mid-1990s. The report goes on to detail the proposed development and assesses the impact of the proposal from various views within the vicinity. It concludes that the setting of the protected structure has radically altered since its construction in 1964. It states that the most significant vistas are clearly now from the north and north-east across the Grand Canal. As a result, the extension proposed is far less obtrusive as it is located at the rear elevation. The proposed alterations to the protected structure will contribute positively to the building itself and to the public realm. It is also stated that the impact of the proposal on the surrounding area including Dartmouth Square ACA are extremely minor. Appendix 1 contains details of historic maps while Appendix 2 contains details of Carrolls building including a detailed photographic survey and drawings.

4.2.6. A **Daylight and Sunlight Assessment** report was also submitted. It provides shadow casting analysis for March 21st at 10 a.m., 12 p.m., 3 p.m. and 5 p.m. It carries out the same assessment for June 21st at 9 a.m., 12 p.m., 3 p.m. and 7 p.m. And also December 21st at 10.30 a.m., 12 p.m. and 3.30 p.m. Shadow cast analysis under each of the above scenarios are carried out for:

- The existing buildings on site.
- The proposed development.
- The proposed development and the adjoining residential development to the south which was the subject of a separate application and has now been withdrawn.

It concludes that there will be no impact on daylight levels at the rear facades of the buildings. The impact in terms of shadow casting will be immaterial to moderate. Any increase in overshadowing will be confined to the dwellings at the northern end of Dartmouth Square West, during the late afternoon and evening during the spring and autumn months.

A **Sustainable Energy Statement** sets out details as to how the energy performance and sustainable construction practices involved in the proposed development will meet or exceed legislative and planning requirements in respect of sustainable energy.

- 4.2.7. An **Archaeological Assessment** was also submitted. The report notes that, notwithstanding its location in an urban area, the site remained a greenfield site throughout much of the early history of Dublin and significant development can only be traced back to the mid-19th century when some form of industrial activity was taking place within the site. It is noted that no previous archaeological fieldwork was carried out within or around the immediate vicinity of the site. A field inspection of the area failed to identify any features or areas of archaeological potential. However, it is possible that features relating to post medieval usage of the site exist. In this regard it is recommended that all disturbances be monitored by a suitably qualified archaeologist. Full provision should be made for the resolution of any archaeological features/deposits that may be discovered should that be deemed the most appropriate manner in which to proceed.

An **Arboricultural Assessment** was also submitted. It notes that two trees will have to be removed to facilitate the proposed development. All retained trees will have necessary remedial tree surgery to ensure that there are no hazard branches, deadwood or weak limbs. Details of the methodology to be employed is set out in the report. It is stated that an arboricultural consultant will be responsible for monitoring all arboricultural works.

- 4.2.8. An **Appropriate Assessment Screening Report** was also submitted. The proposal was assessed in the context of 17 Natura 2000 sites located within the 15 kilometre distance of the subject site. The screening exercise undertaken concludes that the project poses no potential for significant effects and as such requires no further appropriate assessment.

4.3. **Initial Assessment by Planning Authority**

- 4.4. A report from the **City Archaeologist** recommends that in the case where planning permission is granted a number of conditions be attached.

- 4.5. A report from **Dublin City Council Engineering Department** states that there is no objection subject to conditions.
- 4.6. A report from **Transport Infrastructure Ireland** notes with concern that pre-planning consultation took place without any specific reference to Luas issues or Metro related projects being progressed in the area. The proposed development is located in close proximity to a Luas line and the Planning Authority should ensure that there is no adverse impact on Luas operation and safety. It is suggested that there are a number of issues that require resolution and management prior to a decision being made. These include a geotechnical design report and a demolition and construction statement.
- 4.7. A separate report from **Transport Infrastructure Ireland** notes that the applicant should ensure that there is no impact on the Luas operation and safety. The development shall comply with the “Code of Engineering Practice for Works on, near, or adjacent to the Luas Light Rail System”. The contractor shall apply for a works permit from the Luas operator required under the Light Railway (Regulation of Works) By-laws 2004.
- 4.8. Prior consultation will be required with the Luas Operator Transdev. Settlement and vibration monitoring covered by legal agreement during the works must be carried out in accordance with the Code of Practice.
- 4.8.1. Objections
- 4.9. A large number of letters of objection from third parties were submitted highlighting concerns in relation to the size and scale of the proposed development, demands for services, traffic and transport issues, impact on daylight and sunlight and general impact on residential amenity. Many of letters of objection were submitted by residents of Dartmouth Square. A submission objecting to the proposed development from An Taisce was also received.
- 4.10. A report from the **Roads, Streets and Traffic Department** comments on the proposed development in respect of access, traffic impact, car parking, cycle parking and mobility management. Reference is also made to the TII submission and the NTA submission (which does not appear on file) which specifically relates to the provision of the North/South Metro Light Rail. It states that there are no objections in

principle from the Roads and Traffic Planning Division. But it is recommended that additional information be requested in relation to the following:

- The applicant shall liaise with TII in terms of the requirements for works in proximity to the adjacent Luas line.
- The applicant shall consider the points raised within the observation on the application by the NTA which relates to proposals for Metro South and provide a response to the issues raised.

4.11. A report from **Dublin City Conservation Officer** recommends a refusal of planning permission on the grounds that the proposed development is regarded as having a negative impact on the protected structure. The character and setting of the former Carroll's building is adversely affected by the proposed office extension as it was conceived and constructed in the round. In terms of the location and scale of the intervention, the proposed monolithic form of the office extension is regarded as having a negative impact on the setting and architectural character of the adjoining Architectural Conservation Area (ACA) of Dartmouth Square and its environs which is contrary to the objectives and policies as set out in the Architectural Heritage Guidelines.

4.12. The initial Planner's Report sets out details of the proposed development, the site planning history and the observations submitted. Details of policies and provisions contained in the development plan as they relate to the site are also submitted. It is recommended that the following additional information be requested.

1. It is considered that the height and massing of the proposed new circulation and services building abutting the protected structure may be overscaled. In this regard the applicant is requested to consider a reduction in the number of lift shafts which would extend to the sixth and seventh floor levels together with a reduction in the floor area of the lift lobby over both these floors.

In light of these alterations the applicant is invited to consider a proportionate reduction in the overall height across this atrium area.

Please submit confirmation that access will be available to the protected structure via the former industrial entrance to the building as part of the overall commercial development. Any alterations to the overall scheme as proposed

should be accompanied by a revised architectural, visual and conservation impact assessment together with revised landscaping proposals as necessary.

2. Having regard to the proximity of the site to the Green Luas line and proposals for Metro South the applicant is requested to liaise with TII in terms of the requirement for works in proximity to adjacent Luas lines and consider the points raised within the observation on the application by the NTA which relate to proposals for Metro South and provide a response to the issues raised.

4.13. **Additional Information Response**

On 11th August, 2017 the Planning Authority received a response on behalf of the applicant by John Spain and Associates. Revised drawings were submitted amending the sixth and seventh floor levels of the circulation link comprising of a reduction in massing and scale through the number of lifts proposed to serve these levels (two lifts as opposed to four) along with a significant reduction in the overall lobby area and services and restrooms of these upper floors. The original application for the subject development included a parapet height of the atrium area of 30.54 metres. On foot of the revisions the maximum parapet height is 29.26 metres. The overall size of the sixth and seventh floors above have been amended. The height of the proposed atrium/circulation link has been reduced as far as possible without jeopardising the adequate servicing of the office space.

It is also confirmed that access will be available to the protected structure via the former industrial entrance to the building. Access to the protected structure will also be provided by the atrium of the circulation and services link. However, the most direct point of entry to the protected structure will be via the former industrial entrance accessed via the undercroft garden area directly off Grand Parade.

With regard to liaising with Transport Infrastructure Ireland, it is respectfully submitted that the issue of works in proximity to the Luas line adjacent to the site would be best addressed at compliance stage as they relate to detailed technical compliance related matters and not matters of principle. The applicant will be happy to accept a condition in this regard.

It is also stated that in respect of the NTA submission which expresses concern in relation to potential prematurity of the development pending details of the new Metro North and Metro South projects, that proactive discussions have taken place between the applicant and the NTA/TII. On foot of these discussions it has been concluded that the development as proposed subject to minor modifications to the proposed office building, would be consistent with the emerging NTA/TII proposals in respect of the proposed Metro North Extension. This has involved some minor amendments to the sub-basement level on the western elevation. The revised scheme therefore makes provision for the potential future connection and tie between New Metro North and Metro South/Luas at this location, should this be required, and does not in any way prejudice the future delivery of any such project. Also submitted with the additional information is a revised visual impact assessment and a revised photomontage report.

4.14. **Further Assessment by Planning Authority**

A report from the **Conservation Officer** still recommends that planning permission be refused for the proposed development as it is considered that the reduction in the size and scale of the building by way of further information is not significant and that the proposed extension continues to have a significant detrimental impact on the historic setting of Dartmouth Square overwhelming the red brick terraces that surround the park and obstructing views of the iconic modern building. It is considered that the proposal is likely to have an adverse impact on the character of the Architectural Conservation Area and the protected structure.

A report from the Roads and Traffic Planning Division acknowledges that the applicant has proactively engaged with relevant agencies in an attempt to address issues with regard to transport infrastructure. However, having regard to the NTA and TII submission on the further information submitted, it would appear that agreement has not been reached with either agency and in this regard further clarification be sought from the applicant. On 11th September, 2017 clarification of additional information was sought in respect of the following:

It is noted that submissions from both the NTA and TII have indicated in writing that while engagement has taken place, issues regarding the construction in close proximity to the Luas line and the facilitation of Metro South have not been

satisfactorily resolved. The applicant is therefore required to clarify the extent of liaison undertaken with the NTA and TII to date and is requested to address outstanding issues raised in the NTA and TII submissions on the further information response.

4.15. Further Information Submission Submitted

On 11th October, 2017 John Spain and Associates on behalf of the applicant requested an extension of time for the clarification of further information. Dublin City Council granted an extension on 17th October, 2017.

Further information was submitted on behalf of the applicant by John Spain and Associates on 12th December, 2017. It states that further constructive discussions have taken place between the applicant and the NTA and a letter is submitted by the NTA (attached to the response) which notes that considerable process has been made in the discussions in question and the NTA is now in a position to support the granting of planning permission in respect of the application subject to the inclusion of a condition requiring the developer to enter into an agreement with Transport Infrastructure Ireland/National Transport Authority in respect of these authority's requirements to safeguard the infrastructure and operation of the existing Charlemont Luas Station and to accommodate the potential development, construction and operation of a Metro or Light Railway at or near the site within the approved development. With the incorporation of such a condition the NTA reaffirms that it no longer has an objection to the granting of planning permission.

The proposal also includes a number of architectural amendments to the proposal to facilitate the development. These include changes to the layout of the car parking and plant areas at basement level and the relocation or revision of the staircase linking the two basement levels. Also included in the response are details submitted to TII during the course of consultation which provides details of the construction works along the Luas embankment.

A final planner's report notes the concerns of the Conservation Officer and acknowledges that the existing Carrolls building is a building of significant architectural integrity. However, it is noted that the landscape of Dublin has altered significantly in the period since the 1960s and which includes the construction of an elevated Luas line and a number of largescale contemporary developments on both

the northern and southern banks of the Canal. The Planning Authority considers that, given the benefits of the renovation and refurbishment of the protected structure, together with the extension that the proposal will help secure this fine example of modern architecture into the future providing office and circulation space which is fit for purpose. It is considered that when the scheme in its entirety is viewed, the proposed development will not detract from the amenities of the protected structure or the adjoining ACA and would be in accordance with the provisions of the development plan. It is therefore recommended that planning permission be granted for the proposed development.

5.0 Planning History

- 5.1. Full details of the planning history associated with the site are set out in Section 5 of the Planning Report submitted on behalf of the applicant with the original application (prepared by John Spain and Associates).
- 5.2. The planner's report makes reference to one application Reg. Ref. 2380/17 which is the current application on the adjoining site at No. 19A and No. 19 – 24 Dartmouth Road where planning permission is sought for the construction of 4 three-storey overbasement four-bedroomed houses. The proposed dwellings will form a terrace fronting onto Dartmouth Road. This application has been withdrawn.
- 5.3. The planning report submitted by John Spain and Associates makes reference to An Bord Pleanála Appeal Ref. PL29S.095654 where An Bord Pleanála on 9th March, 1995 issued a split decision in respect of the renovation, extension and enclosure of the undercroft at ground floor level to accommodate entrance reception, meeting rooms and building society branch offices, removal of existing canopy and the provision of a new entrance and canopy and a change of use of second floor level from manufacturing to office use, replacement of fenestration to the rear of the building and the provision of lift plant room to the rear at roof level together with external signage and an ATM machine.
- 5.4. Details of other planning applications dating from the mid-1990s are also contained in Section 5 of the planning report, as are a number of minor applications granted between 2000 and 2005.

6.0 Grounds of Appeal

6.1. The decision of Dublin City Council to issue notification to grant planning permission was subject to multiple third-party appeals. The appellants are as follows:

- Romney and Sinead Keane.
- Grace Maguire and John Ryan. This appeal contained additional submissions from the following parties:
 - Kathleen White and John Neary
 - Ivan Durcan
 - Carmen Neary
 - Aidan McGovern
 - Terry Reid
 - Geraldine O'Connell
 - Sharon McCabe
 - Geraldine Ann Cusack
- Appeal by Murriss O'Dwyer and Helena Kelly
- Appeal by Upper Leeson Street Area Residents Association
- Appeal by Patrick and Caitriona Shaffrey
- Appeal by John Conway and Orlaith McCarthy
- Appeal by Alexander and Joseph Kearney
- Appeal by Terry Reid and Others (c/o McCabe Durney Barnes Consultants)
- Appeal by Elisabeth Vandenberghe
- Appeal by Irene and Suzi Taylor

6.2. A number of observations were also received objecting to the proposed developments. The observations were submitted by:

- John and Josianne Bullows.
- Margaret Coyle

- Docomomo

Many of the appeals submitted contain significant levels of overlap in terms of issues raised. For this reason, it is proposed to set out the appeals on a topic basis as opposed to summarising the grounds of appeal by each individual appellant.

6.3 Impact on Dartmouth Square Architectural Conservation Area.

Many of the grounds of appeal express major concern in respect of the potential of the proposed development to adversely affect the setting, character and amenity associated with Dartmouth Square. The appeals argue that there is no relationship between the proposed building and the existing Architectural Conservation Area. Concerns are expressed that the size and scale of the proposal would be overbearing and would have a devastating impact on the Architectural Conservation Area. It is highlighted that if the proposal is granted, the square can never be brought back to its original setting and ambience. The proposal would visually dominate the houses in Dartmouth Square. It is noted that Dartmouth Square is the only intact surviving Victorian Square in Dublin.

In an Architectural Conservation Area, the onus is placed on the owners to maintain and preserve the houses. Yet Dublin City Council consider it appropriate to allow an enormous development which is out of character with the area. It is noted that the conservation officer recommended refusal, inter alia, on the grounds that the proposal had an unacceptable impact on Dartmouth Square ACA. The grounds of appeal argue that the proposed development is contrary to many of the specific statements set out in the development plan in relation to architectural conservation areas and the proposal is also contrary to Policies SC25 and SC28 of the development plan. A number of appeals also argue that the proposed development has an adverse impact on the designated Grand Canal Conservation Area. Reference is made to the Board's refusal of PL29S.247442 where permission was refused for a five-storey development fronting onto No. 53 Percy Place on the Grand Canal.

6.3. Excessive Building Height

Virtually all the grounds of appeal argue that the proposed development will exacerbate overshadowing particularly in the afternoon period and that the daylight and sunlight analysis submitted is not accurate as not all of the buildings and

extensions to the rear of the buildings on Dartmouth Square West are depicted in the drawings. Furthermore, many of the appeals highlight that the grounds levels of the rear gardens of Dartmouth Square West are considerably below the ground levels of the subject site. This it is argued, was not taken into consideration in undertaking the shadow casting analysis. The grounds of appeal argue that the rear gardens of the dwellings are between 1.2 metres to 2 metres below the ground level of the site. The appeals argue that the overshadowing will impact on Dartmouth Square South and North and also impact on the park area itself. The building will rise to 3 – 4 storeys above the existing houses on Dartmouth Square. It is also suggested that the differentiation in ground levels between the subject site and the rear gardens is not adequately reflected in the photomontages submitted.

One appeal expressed concerns that cranes will encroach on the air space over the houses on Dartmouth Square during the duration of the construction period. A number of appeals highlight the fact that the garden is a very important amenity for the residents as it represents a private secluded area in a busy urban environment.

Finally, many of the grounds of appeal argue that an entire new daylight and sunlight assessment is required.

6.4. Impact on the Former Carrolls Building, the Protected Structure at No. 2 Grand Parade.

The appeal submitted by Alexander and Joseph Kearney almost exclusively deals with the contended adverse impact that the proposed development will have on the former Carrolls building. It notes that the building is one of the few designated protected structures from the modern era in the city. The proposed size and scale of the office development to the rear of the building will diminish and harm the context and setting of the protected structure. The proposed office development to the rear is almost twice the size of the existing building on site and this would profoundly impact on its context and setting. The proposed extension will interfere with the building's uniqueness as the Carrolls building was designed as a standalone structure. The attendant grounds of the Carrolls building should be afforded the same designation as the structure itself. A good many of the appeals submitted argue that the proposed new office development will overwhelm and detract from the Carrolls

building. It is suggested that it cannot be reasonably argued that the office block is in any way ancillary or subordinate to the original Carrolls building.

Concern is expressed that none of the local authority planning reports refer to the alterations proposed to the original fabric of the building. It is suggested that the proposed alterations are neither minimal or discreet as suggested in the information submitted with the application. It is argued that the replacement of the fenestration would transform a classic and now rare example of mid-20th century Irish modernism to an anonymous replacement. This it is argued, is contrary to the architectural protection guidelines. It is argued that there has been no change (other than the Luas line which runs contiguous to the site) in the urban environment surrounding the subject site since the construction of the building in the early 1960s.

It is noted that there is a conflict in the statements with regard to whether or not the Conservation Officer of Dublin City Council attended the pre-application consultation meetings. The conservation report submitted with the planning application indicates that the Dublin City Council Conservation Officer was present at the pre-app meetings. However, this is refuted in the Conservation Officer's report on file. One appeal argues that the architectural conservation report submitted with the application is flawed in suggesting that the fenestration on the building should be replaced. The conservation report submitted is also silent on the impact of the proposal on the attic storey which is to be altered as a result of the proposed development. It is also argued that the alternatives proposed for the banking hall/loading bay structure is inappropriate and unsympathetic. The removal and replacement of the original timber cladding to the undercroft soffit is also inappropriate. A number of appeals suggest that there should be greater visual separation of any new development on the site from the protected structure.

6.5. Contravention to Zoning Provisions set out in the Plan

A number of appeals argue that the proposal contravenes Z6 zoning objective as the site is outside the city centre cannot be used for 100% of office use. It is noted that only small-scale offices are permitted under the Z6 zoning. Furthermore, office use is only open for consideration under the Z6 zoning. The appeal by Caitriona and Patrick Shaffrey and others places much emphasis on the contention that there is an oversupply of office space in the Dublin area and that such office space is more

appropriately located within the Canal ring. The Shaffrey appeal estimates that there is c.59,200 square metres of office space coming on stream and as such there is already enough office space in the vicinity of the site to cater for office needs. Many of the grounds of appeal argue that the proposed development is contrary to many policy statements contained in the development plan in respect of conservation areas. Concerns are expressed that the proposed development constitutes an abrupt transition of scale between land uses and this is contrary to Section 14.7 of the development plan which seeks to avoid abrupt transitions in scale between land use zones.

It is also argued that the proposal is contrary to Dublin City Council's Building Height Strategy which indicates a maximum height of 24 metres for buildings in this area of the city, while the subject site rises to 29.54 metres.

6.6. Traffic Issues

Many of the appeals submitted express concerns that parking provision within the development at a mere 30 spaces is insufficient and will result in an overflow of parking onto the adjoining streets. The applicant has exaggerated the historic trip generation associated with the site in an effort to convince the planning authority that the proposal will result in significant traffic reduction over what was historically generated on site.

There are no details of any construction management plan associated with the development. Notwithstanding this point, some appeals argue that the construction phase will give rise to an unacceptable level of HGV movements particularly in the early morning period. Construction traffic will give rise to on-street parking in an around the Dartmouth Square area. One appeal, by Irene and Suzi Taylor, argues that access should only be allowed onto Grand Parade and not Dartmouth Road to the south. This appeal expresses a strenuous objection to construction traffic leaving the Dartmouth Road entrance. The drawings submitted with the application indicate that the HGVs arriving and leaving the site will be a mere 7.9 metres in length. It is argued that the length of most HGVs involved in construction are much greater than this and the parking in and around Dartmouth Road would restrict vehicles leaving the site causing significant traffic back-up and congestion. This appeal suggests that it should be made conditional that all traffic be directed on and off the site through

Grand Parade. It is argued that the Dartmouth Road entrance never accommodated the level of trip generation proposed under the current application.

It is also argued that the traffic study did not adequately assess the impact arising from the increase in service and delivery vehicles. In the interest of protecting residential amenity, it is stated that all service traffic should be via Grand Parade entrance.

It is also suggested that during the operational phase, vehicles travelling to and from the site will travel through residential areas and have a significant impact on the amenities of these areas.

One appeal suggests that the applicant should have sought and obtained planning permission for what amounts to a new road between Grand Parade and Dartmouth Road (i.e. the internal service road).

No substantive details or agreements have been supplied indicating how it is proposed to resolve construction works next to the existing Luas line or how the works could potentially impact on any Metro line in the vicinity of the site. The Board refused planning permission for a similar type office development on grounds of prematurity, as it could compromise the future location of a Dart Underground Station under Reg. Ref. ABP 300446. (These issues were elaborated upon during the proceedings of the oral hearing – see oral submission by Mr. Jerry Barnes).

6.7. Drainage and Flooding Concerns

Many of the appeals submitted argue that the proposal will give rise to significant drainage concerns. The appeals highlight that extensive flooding have occurred in the in the houses of Dartmouth Square in 2009 and 2011. This flooding is attributed to surcharges in the Victorian brick combined sewer which currently services the site and runs along the rear laneway between the subject site and the rear gardens of Dartmouth Square West. It is stated that the existing drainage network is insufficient and would not be able to cope with additional loadings associated with 900 workers in the offices. It is argued that, notwithstanding the fact that flooding has occurred, there have been no improvements in the drainage system. One submission (see submission by Aedan McGovern of No. 68 Dartmouth Square) argues that the Swan

River forms the basis of the drainage system for Dartmouth Square and surrounding areas. In and about 1850 this river was diverted underground and forms a drainage system for the area. This gives rise to a drainage system which is unreliable, ineffective and very prone to flooding.

It is suggested that there is a lot of ambiguity around the drainage system and the applicant should be requested to show details of the existing drainage layout on site. The submission on behalf of Terry Reilly also suggests that the drainage system should incorporate relocated manholes for ease of access. The applicants have not availed of the opportunity to separate a surface water and foul water instead of continuing to utilise the combined sewer. Concerns are expressed that basement levels within the development could be flooded, whereas another appeal suggests that the size and scale of the basement level proposed beneath the development could result in a displacement and overall increase of the water table levels in the area.

6.8. Overlooking

The proposed terraced area to the rear of the new office block will result in substantial overlooking. One appeal makes reference to the docklands area where it is suggested that roof terraces associated with office use are used up until 11 p.m. at night. It is noted that extensions were built to the rear of existing houses but these are not reflected in the drawings and these extensions will suffer greatly from potential overlooking. The development should incorporate louvres or brise soleil in order to reduce overlooking and glare from the building.

6.9. Light Noise and Air Pollution

The proposal will result in excessive light pollution lasting up to 24 hours per day. Little details have been provided with regard to the level of artificial light generated by the proposed development.

The proposal will exacerbate noise pollution in the area particularly as a result of traffic on Grand Parade. It is suggested that the offices could be used on a 24-hour basis which in turn will give rise to excessive noise. The two-year time frame for

building works will result in excessive levels of noise and air pollution for surrounding residents. The construction works will inevitably give rise to excessive levels of dirt and grime in the streets and dwellings surrounding the site. The ground disturbance works and general construction works will generate excessive displacement of vermin in and around the site. There are concerns that asbestos may still be located within the buildings on site to be demolished. Access to and from the underground car park will give rise to excessive noise with cars revving up on ramps etc. To counteract dirt and dust the applicant should be conditioned to carry out window cleaning/cleaning of brickwork during the construction phase.

6.10. Procedural and Legal Issues

The submission on behalf of Terry Reilly and Others by McCabe Durney Barnes argues that the additional information was lodged with the Planning Authority outside the statutory time limit and as such, the information submitted to amend the application should not be included in the consideration of the appeal by the Board. This appeal also suggests that there has been a failure to comply with the provisions of Article 34 of the Planning and Development Regulations. Concern is also expressed that the appellants were prejudiced by the fact that new public notices were not required by the Planning Authority after the submission of further information. It is suggested that amendments have been made and significant additional documentation has been submitted in respect of the proposed development, yet despite this, third parties were not invited to make observations on the significant further information.

It is also argued that inadequate drawings were submitted with the application primarily on the grounds that they failed to show extensions associated with eight dwellings on Dartmouth Road West.

It is also argued that it is ultra vires for the Planning Authority to require agreement to be reached between the applicant and third parties as per condition No. 3 of Dublin City Council's decision.

6.11. Other Issues

The grounds of appeal also highlighted a number of other miscellaneous issues which are briefly summarised below:

- A number of appeals suggest that the site in question would be more suitable for 2/3 storey apartments which would represent a more appropriate land use and would be more reflective of the existing density of development in the area.
- One appeal argues that the photomontages submitted do not adequately reflect the impact arising from the proposal as the proposed office building appears to be indistinguishable from the skyline in the photomontages submitted.
- More than one appeal makes reference to the fact that trees have been felled within the site without adequate authorisation. It is also argued that the developers have not engaged with the residents and have made no attempt to mitigate the effects of the development highlighted in the concerns raised by the local community.
- Building works could cause structural damage to the homes in the vicinity of the site. In this regard, a financial bond should be put in place in the case of any damage occurring.
- Concerns are expressed that works on site could give rise to security issues and also give rise to anti-social behaviour in and around the area.
- One appeal argues that the extensive building in the area could adversely impact on the eco-system associated with the canal.
- Contrary to what is suggested in the planning application, it is argued that the site is not located in the dense urban environment but in an inner suburban environment.

7.0 Appeal Responses

A response was submitted on behalf of the applicant by John Spain and Associates Planning and Development Consultants. It is summarised below.

It sets out details of the site location and description, the relevant planning history and the pre-application consultations which took place with the Planning Authority. It then goes on to describe the proposed development in detail and the changes that

were incorporated by way of further information and clarification of further information request by the Planning Authority.

Section 6 of the submission sets out the planning policy context where reference is made to the National Planning Framework, the Greater Dublin Area Transport Strategy, the National Development Plan, the Architectural Heritage Guidelines, the Regional Planning Guidelines for the Greater Dublin Area and the Dublin City Development Plan. Section 7 of the grounds of appeal specifically sets out a response to the issues raised in the grounds of appeal.

In the first instance it is argued that the proposed development is not of such complexity or such significance to require the holding of an oral hearing.

The responses to the substantive issues raised in the grounds of appeal are set out below.

With regard to potential impacts on the provision of the **Metro and the Luas line**, it is stated that the design of the office building was revised to ensure that the proposed development will not impact on the future delivery of Metro link station and Luas interchange in the subject lands. The revised design was to the satisfaction of the both the TII and the NTA. Also attached to the response are details prepared by DBFL Consulting Engineers attached as Appendix 3. This information demonstrates how the proposed development has been designed to facilitate the future delivery of Metro link station at this location. Both the details submitted as Appendix 3 and by way of clarification of further information, have adequately demonstrated that the proposal can be designed to the NTA/TII satisfaction in the context of the existing and proposed public transport links in the vicinity. Thus it is contended that the applicant has satisfied the requirements of the relevant statutory bodies in respect of the design of the proposed development and the interface with the existing Luas and the planned Metro link station and Luas interchange at this location.

With regard to the reference to **Dublin City Council's decision under (ABP300446)**, where the Council refused permission for an office development on the grounds that it may be prejudice the indicative alignment of the Dart Underground, the Board are requested to note that the Dart Underground Office and Iarnród Éireann still had a number of detailed concerns regarding this proposal whereas in the case of this proposal the applicant has reached agreement with both

TII and the NTA. The response goes on to refer to a number of precedent examples where permission has been granted for development which caters for new rail infrastructure such as Metro and Dart.

With regard to other **procedural matters** it is stated that the Planning Authority and the Board have attached conditions which requires the developer to liaise with TII and/or the Luas operator prior to the commencement of works.

With regard to compliance with **Article 33 and Article 34** it is stated that the further information request issued by the Planning Authority on 27th April, 2017 clearly related to “further information” from the applicant under Article 33 and as such was not requesting revised plans as provided for under the little used Article 34 requirements of the Regulations. Furthermore, it is stated that there is no provision under Article 34 setting out an 8-week timescale for submitted a response. The request for further information was under Article 33 and not revised plans under Article 34 and therefore the application was fully compliant with in all respects. The wording used in the Planning Authority’s cover letter is a standard wording used in all further information requests.

It is clearly a matter for the Planning Authority to decide whether information submitted by way of additional information contains significant new data which would necessitate **the publication of revised notices**. The Planning Authority clearly did not consider that the request warranted new public notices. It is respectfully submitted that the further information submitted to the Planning Authority did not lead to significant alterations that would have had warranted further submissions by third parties.

With regard to the issue of **inaccurate application drawings and inaccurate depiction of ground levels**, HJL Architects engaged a survey company to undertake a further assessment of the site survey information. This has illustrated minor discrepancies in respect of the levels of the existing development on and in proximity to the application site. HJL Architects have prepared an undated site layout plan, ground floor plans and sections which are included in Appendix 2 of the appeal response document. The updated drawings continue to reflect the appropriateness of the proposed development and it demonstrates that it has no material impacts on the original study which was submitted.

Also, included are **further sunlight and daylight assessments** based on the revised ground levels. A report prepared by ARC Consulting contains an additional sunlight assessment which demonstrated that the updated information has no material impacts on the original study and the impact is within acceptable levels having regard to the BRE Guidelines on Site Layout Planning for Daylight and Sunlight (refer to Appendix 7 of response). Both the design of the buildings and the setbacks incorporated along the eastern boundary of the proposed office block is acceptable and provides a sympathetic form of development which does not dominate either the protected structure or Dartmouth Square to the east.

With regard to the **architectural heritage impacts** of the proposed development, the Board are referred to the accompanying response to the third party appeals prepared by David Slattery, Conservation Architect and it provides justification for the proposed development. The applicant has also engaged Maol Iosa Molloy a Grade 1 Conservation Architect to undertake an independent review of the proposals and appeals. This letter is included in Appendix 9 of the response document. The development has been carefully designed with regard to the impact on the existing streetscape, the existing protected structure and the adjoining ACA of Dartmouth Square. The proposed modifications to the protected structure will enhance its character by removing later additions internally and restoring and sensitively upgrading its interior and exterior. The proposed office extension will be linked to the protected structure via a “light touch” extension core.

The proposed changes to the protected structure are judged to entirely beneficial restoring this modern commercial building and transforming it into a high quality contemporary office environment. Reference is also made to the planner’s report which acknowledges that the renovation and refurbishment of the protected structure will help secure this fine example of modern architecture into the future. It is further stated that Slattery Conservation Architects, HJL Architects and JSA Planning Consultants undertook a site visit with the Deputy City Planning Officer and the City Conservation Architect at the earliest stages of the design process. It is considered that the replacement of the outdated frame window system is necessary; based on performance and safety concerns. However, if the Board do not agree with this approach an alternative option has been prepared (see Appendix 2) which includes details of the proposed frame glazing window which would replicate the existing

window system. Interventions to the brick at ground level can also be revised to ensure the retention of these original features if deemed appropriate. The architect can investigate the possibility of repairing and renewing the timber soffit at ground level. However, if this is not possible, a replacement soffit of similar design could be proposed. The applicant will be happy to accept a condition in this regard.

With regard to **the visual impact** of the proposed development, the applicant has engaged Chris Kennett, a landscape and visual consultant to prepare a visual impact assessment which is included as Appendix 8 of the appeal response. It concludes that the visual impact arising from the proposal is considered to be 'moderate' to 'highly positive' in replacing light industrial buildings on site with a new office building. Impacts on the landscape character for much of the surrounding areas are likewise considered to be moderately positive.

With regard to significant **overlooking and loss of residential amenity**, it is stated that the development has been designed to obviate potential overlooking by providing significant separation distances between the properties concerned and the subject building, extending to over 36 metres for the four-storey element and increased setbacks at the upper levels. It is considered that the overall design and setback will help to ensure that no materially adverse overlooking on residential dwellings along Dartmouth Square will occur. The separation distance of the proposed development from the eastern boundary is further increased with each additional floor. The Board should also have regard to the fact that the proposed redevelopment of a strategically located brownfield site, served by a very high quality public transport, is fully in accordance with the policies and objectives in the National Planning Framework and other plans and guidance documents.

With regard to **light pollution**, the response states that the lighting plan shall include directional downlighting columns to reduce light spillage at the boundary of the site. Light spillage shall be maintained below 1 Lux (average) along the site boundary to ensure that neighbouring properties are not adversely affected by the installation of external lighting. Brise-soleil shall be installed externally on the building to further impede office lighting on the horizontal plane. All external and internal lighting shall be installed within the site boundary to be compliant with the requirements of Part M of the Building Regulations.

With regard to **noise/fume pollution**, from the proposed development it is stated that the redevelopment relates to a brownfield site located adjacent to a Luas station. It is stated that the redevelopment of this site will not generate excessive car movements and is fully in accordance with the land use zoning objectives and national planning policy.

With regard to the overall **height** of the development, the original application included a parapet height of 30.54 metres whereas this is reduced by way of F.I. to 29.26 metres. The proposal also incorporated amendments at F.I. stage to the 6th and 7th floors reducing the massing and scale through increased setbacks. In terms of building height, the subject site is located within 500 metres of a Luas stop and therefore allows for building heights of up to 24 metres in this area. The proposed new building is consistent with the height of the existing office building and is appropriate in the context of the adjoining Luas stop. Thus, it is respectfully submitted that the proposed development accords with the policies of the development in respect of height. The visual impact assessment prepared by Chris Kennett provides further justification for the proposed height, design and layout of the scheme.

With regard to **the Z6 zoning provision** it is submitted that the proposed new office building is a much more appropriate form of employment use than warehousing in terms of function and appearance and the proposed office building will represent a considerable improvement in all relevant respects compared to the existing warehousing and industrial structures. The subject site is located in an area with a mix of landuses including other large developments at Charlemont Street and Harcourt Terrace. Reference is made to precedent decisions where the Board granted planning permission for new office building on Z6 zoned lands outside the canal ring.

With regard to **traffic considerations**, further drawings are submitted presenting a sweep path analysis for large vehicles turning in and out of the subject site on Dartmouth Road. They illustrate that vehicles can safely turn in and out of the site without coming into conflict with any of the parked vehicles on Dartmouth Road. Full details of a rebuttal to the traffic and transport concerns are contained in the report prepared by DBFL Consulting Engineers (Appendix 5). The report states that the existing entrance off Grand Parade will continue to handle the large majority of

movements entering and exiting the site. It is noted that neither the planner's report or the roads and traffic division, raise any objections with the arrangements proposed for vehicular access and parking within the site. With regard to car parking standards, a maximum car parking requirement of 63 spaces could be provided to facilitate the development. In total 35 spaces are provided (30 at basement level and 5 at surface level), and the proposed scheme therefore does not seek to exceed the car park maximum for office accommodation.

- 7.1. In relation to **drainage and flooding concerns** a separate response was prepared by DBFL Consulting Engineers and is attached to Appendix 4. It is acknowledged that there will be a small increase in foul loading. However, there will be a significant reduction in peak flow rate from surface water. The development will significantly reduce both the flow and volume of surface water which will improve the existing situation.
- 7.2. Finally, it is stated that the concurrent application for residential development on the adjacent lands at 19A and 19 – 25 Dartmouth Road (subsequently withdrawn) that an appellant raised concerns that a bat survey was not included in the application. Therefore, in the interests of thoroughness an initial bat assessment was submitted in response to the grounds of appeal.

8.0 **Dublin City Council's Response to the Grounds of Appeal**

It appears that Dublin City Council did not submit a response to the grounds of appeal.

8.1. **Further Submissions**

The various third party appeals were circulated to other third parties and a response was received from the Upper Leeson Street Area Residents Association. The response agrees with many of the points raised in the other third party appeals.

9.0 Planning Policy Provision

9.1. National Planning Framework

- 9.1.1. One of the key shared goals set out in the planning framework is to achieve compact growth. This is sought by carefully managing the sustainable growth of compact cities, towns and villages which will add value and create more attractive places in which people can live and work. All our urban settlements contain many potential development areas centrally located and frequently publically owned, that are suitable and capable of reuse to provide housing, jobs, amenities and services but which need a streamlined and co-ordinated approach to their development with investment in enabling infrastructure and supporting amenities to realise their potential. Activating these strategic areas and achieving effective density consolidation rather than more sprawl of the urban development is a top priority in the NPF. Section 4.5 of the framework plan seeks to achieve urban infill and brownfield development. The plan targets a significant proportion of future urban development on infill/brownfield sites within the built footprint of existing urban areas. National Policy Objective 11 states in meeting urban development requirements, there will be a presumption in favour of development that can encourage more people and generate more jobs and activity within existing cities, towns and villages subject to development meeting with appropriate planning standards and achieving targeted growth.
- 9.1.2. The National Framework Plan also seeks to enhance amenity and heritage so that our cities, towns and villages are attractive and can offer a good quality of life. This will require investment in well-designed public realm which includes public spaces, parks and streets as well as recreational infrastructure. Development must integrate with our built cultural and natural heritage, which has intrinsic value in defining the character of urban areas and adding to their attractiveness and sense of space.

9.2. National Development Plan 2018 – 2027

- 9.2.1. The National Development Plan 2018 – 2027 includes proposals for a Metro link. The estimated completion date of which is 2027. As envisaged by the NTA's Public Transport Strategy for the Greater Dublin Area a light rail system from Swords via

Dublin Airport to Dublin's South City (operating in tunnel under the City Centre) and onwards to Sandyford using the existing Luas Green Line to ensure that growth along this corridor can be accommodated. This will provide Dublin with a high capacity high frequency cross city rail corridor serving critical destinations such as Swords, Dublin Airport, Dublin City University, Ballymun, the Mater Hospital and existing destinations along the Green Luas Line to Sandyford. Metro link will provide fast and reliable journey times to and from these key destinations while offering interchange with other rail and dart expansion and light rail and bus services.

9.3. Architectural Heritage Guidelines 2011

- 9.3.1. Chapter 7 of the said Guidelines specifically relate to conservation principles whereas Chapter 10 relates to windows and doors. Section 7.3 of the guidelines notes that the best method of conserving historic building is keeping it in active use. The guidelines also highlight the importance of using expert conservation advice and protecting the special interest of the building. It notes that the character and special interest of the protected structure can be damaged by inappropriate works. The blanket application of standard solutions to historic buildings is not appropriate.
- 9.3.2. Section 7.7 of the guidelines seek to promote minimum interventions. The principle of promoting minimum intervention in a protected structure is best summed up by the maximum "do as much as necessary and as little as possible". In granting planning permission, the Planning Authority should be satisfied that works are necessary whether these be repair works to the fabric of the building or adaptations to the structure to allow it to perform a new or enhanced function.
- 9.3.3. Section 10.4.15 sets out considerations of proposals affecting windows in historic structures. It states that proposals to remove, replace or otherwise alter historic windows should be given close attention. Where repairs are proposed these should be preferably specified on a window by windows basis as the extent of repair can vary widely, depending on weathering and other factors. It is important for the character and appearance of a structure, that fenestrations patterns are protected. Where replacement windows are permitted, the materials, glazing, division and sectional profile of these new windows should be appropriate to the date of the protected structure or to the date when the opening was made.

9.3.4. Section 10.4.12 notes that most examples of steel frame windows in Ireland date from the first half of the 20th century. Steel frame windows with horizontally proportioned panes were characteristic features of buildings of or influenced by the modern movement in architecture. When these window frames are removed and replaced with frames of different materials, proportions or sectional profile, much of the architectural character of the buildings is lost. Where steel framed windows are important to the character and quality of the structure that it is protected, they should be repaired or if beyond repair their replacement on a like for like basis should be encouraged.

9.4. Development Plan Provision

- 9.4.1. The policies and provisions contained in the Dublin City Development Plan 2016 – 2022 apply. The subject site is zoned Z6 with the objective to “*to provide for the creation and protection of enterprise and facilitate opportunities for employment creation*”. The development plan states that Z6 zoned lands constitute an important landbank for employment use in the city, which is strategically important to protect. The primary objective of the Z6 zoned lands is to facilitate long-term economic development in the city region. Cultural/recreational buildings and uses are a permitted use under the Z6 zoning. Restaurant is also a permitted use under the Z6 zoning. Office use is open for consideration under the Z6 zoning.
- 9.4.2. A small area of the site fronting onto Dartmouth Road is governed by the zoning objective Z1 Residential, this area is located outside but contiguous to the subject site.
- 9.4.3. In terms of policy, Policy CEE11 of the seeks to “promote and facilitate the supply of commercial space, where appropriate e.g. retail and office space including larger floor plates and quanta suitable for indigenous and FDIHQ type uses as a means of increasing choice and competitiveness and encouraging indigenous and global HQs to locate in Dublin; to consolidate employment provision in the city by incentivising and facilitating the high quality redevelopment of obsolete office stock within the city.
- 9.4.4. Relevant policies in relation to built heritage include CHC1 to seek the preservation of built heritage in the city that makes a positive contribution to the character,

appearance and quality of local streetscapes and the sustainable development of the city.

- 9.4.5. Policy CHC2 seeks to “ensure that the special interest of protected structures is protected. Development will conserve and enhance protected structures and their curtilage and will:
- (a) Protect or where appropriate, restore from features and fabric which contribute to the special interest.
 - (b) Incorporate high standards of craftsmanship and relate sensitivity to the scale, proportions, design period and architectural detail of the original building using traditional materials in most circumstances.
 - (c) Be highly sensitive to the historic fabric and special interest of the interior, including its plan form, hierarchy of spaces, structures and architectural detail, fixtures, fittings and materials.
 - (d) Not cause harm to the curtilage of the structure: therefore, the design, form, scale, height proportion, setting and materials of the new development should relate to and complement the special character of the protected structure.
 - (e) Protect architectural items of interest from damage or theft while buildings are empty during the course of works.
 - (f) Having regard to ecological considerations for example, protection of species such as bats”.
- 9.4.6. With regard to architectural conservation areas, the plan states that a key objective of the core strategy is to protect and enhance the special characteristics of the city’s built and natural heritage. The principle measures enabling the city council to achieve this objective are the Record of Protected Structures and the designation of Architectural Conservation Areas.
- 9.4.7. With regard to the approach to taller buildings, Section 4.5.4.1 states that Dublin City Council acknowledges the intrinsic quality of Dublin as a low-rise city and considers that it should remain predominantly so. The vast majority of the city area is identified as not being suitable for mid-rise or taller buildings. The City Council remains committed to the need to protect conservation areas, architectural conservation

areas and the historic core of the city. However, taller buildings can also play an important visual role and can make a positive contribution to the skyline of the city.

- 9.4.8. Section 11.1.3 of the development plan sets out the key challenges one of which is to protect the special character of existing designated architectural conservation areas and conservation areas of Dublin City and to continue identifying other areas of special, historic and architectural interest and designate these areas as architectural conservation areas.
- 9.4.9. Section 11.1.5.4 specifically relates to architectural conservation areas and conservation areas. Architectural conservation areas have been designated in recognition of their special interest or unique historic and architectural character and important contribution to the heritage of the city. These areas require special care in terms of development proposal and works by private and public sector alike which affect structures both protected and non-protected in these areas. Dublin City Council will thus seek to ensure that development proposals within all architectural conservation areas and conservation areas complement the character of the area including the setting of protected structures and comply with development standards.
- 9.4.10. The policy to ensure the conservation and protection of the areas of special historic and architectural interest are as follows:

CHC4 – To protect the special interest and character of all Dublin’s conservation areas. Development within or affecting a conservation area must contribute positively to its character and distinctiveness, and take opportunities to protect and enhance the character and appearance of the area and its setting wherever possible. It is the policy of Dublin City Council to ensure that development will not:

1. Harm building spaces, original street patterns or other features which contribute positively to the special interest of the conservation area.
2. Involve the loss of traditional, historic or important building forms, features and detailing including roofspaces, shopfronts, stores, windows and other decorative detail.
3. Introduce design details and materials such as PVC, aluminium and inappropriately designed or dimensioned timber windows and doors.
4. Harm the setting of the conservation area.

5. Constitute a visually obtrusive or dominant form.

9.5. Dartmouth Square and Environs Architectural Conservation Area adopted 4th February, 2008.

9.6. This document sets out the historical context of Dartmouth Square and describes the architectural character of the area. It also details the landscaped square, the pavement and street furniture associated with the square. It is described as a quiet residential enclave just minutes away from the city centre. It boasts quality materials which are repeated throughout the square with its use of red brick granite, decorative cast and wrought iron railings. The square is significant being the last square to be constructed as a formal residential square in Dublin. The interventions which would detract from the character include the following:

- The removal of boundary walls including plinth walls and railings.
- The insertion of new driveways.
- The replacement of natural slate roofs with artificial slate.
- The removal of original features and replacement with inappropriate modern replacements such as windows, doors, rainwater goods, railings etc.
- The removal of trees.
- The removal of the park setting.

9.7. The overall policy is set out in Section 7.1 which states it is the policy of Dublin City Council to protect and conserve the character and setting of the ACA as set out in the document.

10.0 Planning Assessment

I have read the entire contents of the file, have had particular regard to the grounds of appeal and the observations submitted on file. I have also conducted an oral hearing into the proposed development and have had regard to the oral submissions and discussions which took place at the said hearing. I have visited the site and the surroundings and I consider the critical issues in determining the current application and appeal are as follows:

- Strategic planning issues with regard to quantum of development on the subject site
- Impact on Dartmouth Square Architectural Conservation Area. In assessing the impact on the conservation area, I will have particular regard to issues in relation to overshadowing, impact on privacy and residential amenity, impact on traffic and parking arrangements within the square and more general issues in relation to noise, air and light pollution.
- Impact on the setting and integrity of the existing protected structure at No. 2 Grand Parade
- Contravention of Zoning Objectives and Policy Objectives in the Development Plan
- Other Traffic Considerations
- Impact on Metro North Route and Luas Alignment
- Drainage and Flooding Issues
- Procedural Issues
- Other Issues

10.1. Strategic Issues on the Quantum of Development Proposed for the Subject Site

- 10.1.1. Prior to addressing the specific issues raised in the various appeals submitted, the Board in my view must attempt to reconcile the various, and it should be said very often conflicting, policy statements set out in wider strategic plans on a national and regional level with those more micro policies and statements set out in the City Development Plan in relation to the Dartmouth Square Architectural Conservation Area.
- 10.1.2. The recently adopted NPF consistently highlights the importance of increasing the density of development within built-up areas and on brownfield sites. Section 2.6 of the NPF highlights the importance of securing compact growth within cities which focuses on reusing previously developed brownfield land. The subject site in my view would fall within this category. Furthermore, Section 4.5 of the NPF highlights the presumption in favour of development that can encourage more people and generate more jobs and activity within existing cities on brownfield and infill sites. The need for integrated spatial and transport planning, placing higher density development closer public transport nodes to achieve more sustainable public transport patterns is also highlighted in the National Framework.
- 10.1.3. Thus, the provision of a higher quantum of development facilitating employment uses on the subject site which is in close proximity to the city centre on serviced lands close to public transport nodes (Charlemont Luas stop and potentially a new Metro stop) would be justified in strategic terms. The subject site constitutes an important and somewhat exemplary site to achieve a higher density development such as that espoused in the framework.
- 10.1.4. On the other hand, the City Council Development Plan is clear and unambiguous in the need to protect not only Architectural Conservation Areas but also the context and setting of such conservation areas. A key objective of the core strategy is to protect and enhance the special characteristics of the city's built and natural heritage. This is achieved through the designation of protected structures and the designation of ACA's. Furthermore, Section 4.5.4.1 of the Development Plan states that *"Dublin City Council acknowledges the intrinsic quality of Dublin as a low-rise city and considers that it should remain predominantly so. The vast majority of the*

city area is identified as not being suitable for mid-rise or taller buildings". Finally, this section states that "*the City Council remains committed to the need to protect Conservation Areas, Architectural Conservation Areas and the historic core of the city*".

- 10.1.5. It is apparent therefore that there is somewhat of a conflict between the National Planning aspirations when it comes to redeveloping sites within our cities and local planning policy as they relate to such sites.
- 10.1.6. Based on the reasoning set out above there is a need on a strategic level to accommodate higher density development within the city centre such as that proposed while at the same time the Board will need to take cognisance and be aware that there are over 20 ACA designations within the city centre including the designation at Dartmouth Square. Thus, virtually any redevelopment of brownfield or infill sites within or close to the city centre will have the potential to impact upon the context or setting of the built heritage of the city.
- 10.1.7. Therefore, in my view a key consideration in determining the current application and appeal is whether or not the impact arising from the proposed development on the context and setting of Dartmouth Square ACA is acceptable. There is no doubt in my mind that there will be a degree of impact on the setting of the ACA as a result of the proposed development. The Board however must deliberate on whether or not such an impact is acceptable on the residents of the area having regard to the need to achieve more national strategic planning interests as set out in the NPF. This issue will be addressed in more detail below under the following subheadings:

Visual Impact

Two aspects need to be considered in respect of the visual impact.

- (a) the visual impact from the public domain in and around Dartmouth Square, and
- (b) the visual impact of the proposal from private views to the rear of dwellings on Dartmouth Square West backing onto the eastern boundary of the site.

In relation to the former, the applicant has submitted a series of photomontages which depict the impact of the development from various vantage points in and around Dartmouth Square. This visual impact assessment was augmented by further

information submitted by Mr. Chris Kennet on behalf of the applicant during the proceedings of the oral hearing. It is apparent from these photomontages that the views of the proposed new office block are only apparent from a few vantage points within the square, namely views from the north-eastern corner of the square looking westwards towards the subject site. The upper floors of the proposed office block will be very much apparent, particularly during the winter time when the trees within the square accommodate less foliage. (See View 3 of photomontages submitted dated July, 2017). The Board will be aware from the photographs submitted that Dartmouth Square is a sylvan and verdant square with a high number of mature deciduous trees. The landscaping within the square will assist in concealing views of the proposed new office block throughout the late spring, summer and autumn months. Views of the new office block will be apparent from vantage points within the park area of Dartmouth Square as well but again views will be restricted during the summer and autumn months by the dense foliage within the square. Other vantage points in Dartmouth Square afford only occasional glimpses of the office block or do not provide any views at all because of the intervening buildings.

The fact that an existing eight-storey office block exists to the rear of the dwellings fronting onto Dartmouth Square West is also a material consideration in my view. While this office block is undoubtedly a fine architectural edifice, it is nonetheless strikingly different in terms of mass, scale, form and design than the domestic dwellings fronting onto Dartmouth Square. Thus it cannot be reasonably argued in my view that prospects across Dartmouth Square are pristine and unspoilt at present particularly when looking westwards across the square towards the subject site. The former Carrolls building as an iconic modern structure within the city is a very modern addition to the skyline which does not assimilate architecturally with the late Victorian residential character of Dartmouth Square.

Based on the analysis above, I consider that the impact arising from the office block is modest as it can only be seen from limited vantage points within the square and the new development is subservient in height to the eight-storey office block which has already been constructed on site particularly when viewed from middle distances across the square. I therefore conclude that the visual impact arising from the proposed new office development is on the whole modest and acceptable from vantage points within the Square.

Views will be more noticeable from Dartmouth Road directly opposite the southern entrance of the site. However, this section of Dartmouth Road lies outside the Architectural Conservation Area and I consider that the block is sufficiently setback within the site so as not to ensure that the office block will be so dominant as to significantly affect the context and setting of the houses on Dartmouth Road. The impact of the proposed office development on this context and setting of the former Carroll's building is assessed further below in my report.

With regard to views from the rear of the dwellings backing onto the eastern boundary of the subject site, the visual impact will be profound but not necessarily in my view, adverse. The Board will be aware of the fact that nobody under law is entitled to a view where such a view is not protected under the Planning and Development Acts. I have visited a number of houses in Dartmouth Square West and also viewed the subject site from rear windows at garden level, upper ground floor level and first floor level and while these views afford the residents clear and uninterrupted views of the site the subject site presently cannot be considered aesthetically pleasing, comprising of concrete and corrugated iron derelict sheds interspersed with surface car parking. The redevelopment of the site in my opinion has the potential to offer more visually pleasing views provided that any such development incorporates appropriate landscaping and is of an appropriate size and scale which does not result in an overbearing impact. Thus the key consideration in my view is whether or not the proposed office development will result in a visually overbearing structure when viewed from the rear of the dwellings on Dartmouth Square West.

The closest point between the building proposed and the rear return of No. 6 Dartmouth Square West is estimated to be 24 metres. However, the separation distance in this case only relates to the three-storey element of the proposed office block. Furthermore, the separation distance between the rear elevations of the houses on Dartmouth Square and the proposed development is c.30 metres. In addition it appears from the drawings submitted, that the three-storey element of the proposal rises to a parapet level of +27.8 metres AOD whereas the ridge height of the dwellings on Dartmouth Square rise to a height of 25.9 metres AOD. Thus, the difference in height between the existing houses and the proposed three-storey element is less than 2 metres. The four-storey element is setback c.38 metres from

the rear façade of the dwellings while the setback in the case of the five-storey element is over 43 metres from the rear façade. I consider these separation distances to be acceptable having regard to the built-up nature of the area. In fact, I consider that such separation distances between residential dwellings in the case of suburban type development would generally be considered acceptable. The Board is aware that separation distances of c.22 metres are deemed to be acceptable in the case of two-storey suburban houses. It is clear from the policies in the development plan that Dublin City Council, in urban areas where a tighter urban grain exists, employ a more flexible approach and often allow lesser separation distances in appropriate context. With this in mind, the Board will note that the proposal constitutes office development and not residential development and this in turn could justify less stringent separation distances as the proposal will not result in habitable rooms overlooking other habitable rooms outside business hours.

I would also reiterate that there is a need to develop key brownfield sites at sustainable densities in accordance with the National Planning Framework. The relationship between the proposed building and the rear of Dartmouth Square is appropriately indicated on Photomontage View 15 submitted with the application. This photomontage illustrates that adequate separation distances exists in my view and that in an inner suburban environment such as Dartmouth Square separation distances of c.30 metres between existing and proposed building lines in the case of three-storey buildings would be acceptable and separation distances in excess of 30 metres would be acceptable in the case of buildings above three-storeys in height. The progressive stepping back of the building at each floor level will contribute to alleviating any perceived overbearing effect arising from the proposed development to the rear of the houses on Dartmouth Square West.

Overshadowing Issues

Multiple third-party appeals have expressed concerns with regard to the potential impact arising from overshadowing. The grounds of appeal also contend that the overshadowing analysis undertaken by the appellant fails to take into account the differences in ground levels between the appeal site and the houses on Dartmouth Square. My site inspection revealed that there are in fact noticeable differences in ground levels which could potentially exacerbate impacts in terms of overshadowing. The drawings submitted with the applicant's response to the grounds of appeal

indicate that there is c.1 metre between the finished floor level of the proposal and the rear gardens of the houses at Dartmouth Square West. The applicant submitted revised shadow casting analysis in March, 2018 in response to the concerns raised in the third party appeals. Details of the shadow casting analysis was also submitted by Mr. Bill Hastings at the oral hearing.

Having regard to the elevated Luas line which runs along the western boundary of the site, it is considered that the main potential impact arising, relates to the rear of the houses fronting onto Dartmouth Square West. The predicted impacts in terms of shadow casting are contained in the diagrams submitted to the Board in March, 2018 in response to the third party appeals and also at the oral hearing. The modelling predicts that shadows cast by the proposed development will result in little or no impact on lands to the west or north of the application site. The proposed development will result in some additional overshadowing to the rear of Dartmouth Square West during the late afternoons and evenings of the spring and autumn months and the late evenings of some of the houses at the northern end of the terrace during the summer months. The impacts are described as being from 'imperceptible' to 'slight' extending to 'moderate' under a worst case scenario, with the greatest impact occurring as the afternoon progresses into evening at the rear facades of the houses.

A shadow casting diagram was also submitted by Ms. Caitriona Shaffrey on behalf of the third parties both as part of her grounds of appeal and as part of her submission to the oral hearing. This shadow casting diagram purports to indicate the impact of overshadowing during the winter solstice. Mr. Hastings pointed out as part of his evidence at the oral hearing, that the sun as depicted in Ms. Shaffrey's diagram could not occur during the winter months as this would suggest that the sun is at an azimuth of approximately 250 degrees. (i.e. almost directly west of the square). Mr. Hastings' submission notes that there is no time during the winter months when the sun is at a solar altitude of 11 degrees and at a solar azimuth of 250 degrees. As a result it is contended that the shadow diagrams are not correct and are not indicative of the impact of the proposed development during the winter months. Having consulted sun azimuth tables for Dublin's co-ordinates (53.35°N and 6.26°W), Mr Hastings conclusions would appear to be correct, that the sun would have set at a solar azimuth at c.245 degrees in mid winter.

In terms of adequate sunlight penetration, the BRE Guidelines recommends that any window should have a reasonable expectation of receiving 25% of annual probable sunlight hours (reducing to 5% during the winter months). Table 2.1 of the revised daylight and sunlight analysis submitted in response to the grounds of appeal indicate that these levels of sunlight penetration are achieved in the case of the rear elevations of the buildings on the western side of Dartmouth Square. The analysis also concludes that the rear gardens of the buildings are likely to receive at least 2 hours of sunlight over half their areas on March 21st (vernal equinox). This likewise complies with the standards and guidance set out in the BRE document. The shadow casting analysis undertaken indicate that the rear gardens of the terrace block of dwellings on the western side of Dartmouth Square will continue to receive adequate sunlight during mid-afternoon in March. The northerly houses in the row will experience a greater level of shadowing casting in the late afternoon as already mentioned. However, the difference in shadow casting in the early evening time during the summer solstice will be negligible and will not result in any material difference. The only material differences will occur during mid to late afternoon in the spring and autumn months and the impact is deemed to be acceptable.

It is inevitable in an existing urban area where sites are developed at more sustainable densities in appropriate locations, that some level of additional overshadowing occurs. This is in my view is an inevitable consequence of developing the site in question. The analysis undertaken on behalf of the applicants have in my opinion adequately demonstrated that the additional impact arising from the development of the subject site will not have a significant impact in terms of overshadowing and any slight increase in shadow casting by the proposed development would be acceptable in my view.

With regard to predicted impacts on daylight access, again the analysis undertaken on behalf of the applicants has indicated that no part of the proposed development will exceed 25 degrees to the horizontal when viewed from the centre of the lowest window of the rear elevation of the dwellings at Dartmouth Square. That is to say that the proposed building is sufficiently setback and stepped back to ensure that the building would not impinge upon or exceed the 25 degree angle subtended from the horizontal point along the centre of the window. As such, the proposed development would not impact on daylight access in accordance with BRE standards.

10.2. **Impact on Privacy and Amenity through Overlooking**

- 10.2.1. The rear gardens of Dartmouth Square currently enjoy undisturbed privacy and seclusion. While separation distances are generous between the proposed development and the rear of the dwellings in question, the proposal incorporates outdoor terraced areas at roof level at 4th and 5th floor level affording occupants of the building views eastwards towards the rear gardens of the dwellings in question. There is in my view significant potential to overlook the rear gardens in question particularly have regard to the differential in ground levels and building heights which will potentially exacerbate overlooking issues.
- 10.2.2. However, the issue in my view could be appropriately resolved with the incorporation of 2-metre-high opaque glazing along the eastern and southern perimeter of the roof garden. The applicant has indicated that he has no objection in principle to such a condition being incorporated, should the Board consider it appropriate. The incorporation of such perimeter glazing would not have a significant impact on the amenities of the office workers but would preclude the potential for overlooking of the rear gardens of Dartmouth Square West and as such would contribute significantly to protecting the amenity of the residents of these dwellings.

10.2.3. ***Parking Overspill***

A number of the third-party appellants express concerns regarding the potential for the office development to exacerbate and accentuate parking overspill into surrounding streets which could deny residents who hold parking permits, to avail of on-street car parking in the vicinity of their dwellings. If the Board have concerns regarding parking overspill, it could consider increasing the number of car parking spaces at ground/surface level, (any increased levels within the basement car park could potentially compromise any future plans for the subjacent Metrolink – see evaluation of this issue further in this assessment). However, I would strongly recommend against increasing parking provision on the subject site as this could undermine the use of public transport patronage. It is clear that the site is already well served by public transport being in close proximity to a Luas line and being in the wider proximity to high quality and regular bus services including the 46A and the 11 route which run along Leeson Street. There are also numerous bus routes which

run along the Ranelagh Road and onto into Ranelagh Village. The subject site and its surroundings is one of the better parts of the city served by public transport.

Furthermore, the site is located in an area of the city which is very accessible by walking and by bike. The applicants have also submitted a comprehensive mobility management plan which sets out a suite of measures which will promote more sustainable methods of travel and will discourage car use to and from the site.

Dartmouth Square and the surrounding streets are the subject of residential parking permits and Pay and Display parking arrangements. Cars are permitted to park for a maximum of three hours and the price of parking in the area is €2.90 per hour.

According to information submitted to the oral hearing, this is the most expensive on-street parking regime similar to that of the city centre.

Having regard to the high quality public transport infrastructure around the site, I consider that there are adequate alternatives to the use of the private car and it is unlikely that workers will avail of short-term pay and display parking in the surrounding road network as a means of commuting to and from the subject site. My photographs attached indicate that during my time of site inspection the on-street Pay and Display parking in and around Dartmouth Square was not intensely used.

With regard to visitor parking/service/delivery parking, adequate delivery and service parking is available on site and visitors can avail of on-street short-term parking on the surrounding streets as is the case with other office and commercial developments in the wider area.

With regard to car parking standards, the maximum number of car parking spaces that would be permitted on site is 55 (one space per 200 square metres based on a revised gross floor area of 11,060 square metres). I would emphasise that under the provision of the development plan 55 spaces would be the maximum number of spaces which would be permitted. In this context, and in order to provide more sustainable forms of trip generation to and from the site, the provision of 35 spaces is deemed to be both adequate and appropriate.

10.2.4. Light Pollution

The proposed development will not give rise to any significant levels of light pollution for the residents of Dartmouth Square. The presence of high boundary walls together with a 2 metre wide laneway between the subject site and the rear gardens will help

mitigation against light spillage from any light lamp standard located around the perimeter of the site. The applicant has indicated (see Section 7.9.1 of the Response to the Grounds of Appeal) that all external lighting designs shall include cowled lighting columns with cut off photometrics to reduce light spillage. It is stated that light spillage shall be maintained below '1 lux average' along the site boundary. This would constitute an acceptable level of light pollution in an urban area. The houses in Dartmouth Square would experience high levels of artificial lighting as per any city location.

With regard to light spillage emanating from the building there be inevitably some increase in artificial lighting over and above that which currently exists on site as a result of the new building. However, again I consider this to be reasonable in an urban area where large amounts of artificial lighting already exist. The applicant also proposes to incorporate louvres or brise-soleils on the external finishes which will help mitigate against overt light spillage.

10.2.5. Construction Noise and Air Pollution

While the proposal constitutes a large development, which will inevitably give rise to some additional noise and fugitive dust generation during the construction phase, such emissions are inevitable and temporary in duration. The applicant has submitted a Construction and Demolition Management Plan which sets out a methodology for minimising emission impacts. It would in my view be inappropriate to refuse planning permission for the proposed development on the grounds that the proposal would give rise to unacceptable levels of emissions during the construction phase, particularly as the applicant has employed a method statement to mitigate, as far as is practically possible any such impacts.

With regard to the issue of window cleaning, the submission at the oral hearing with Mr. Kieran Black suggested that the Board should consider, where it is minded to grant planning permission, incorporating a condition requiring the applicant to clean windows and cars of houses in the area, on an intermittent basis during the construction phase. It was argued that such a condition was incorporated by the Board in its decision in respect of the National Children's Hospital. I consider that there is sufficient separation distance between the site and the dwellings in the vicinity to ensure that fugitive dust deposition is not a material issue. I reiterate that

the construction management plan should also ensure that dust suppression measures are appropriately implemented in order to reduce the amount of fugitive dust. The site is also encased by relatively large perimeter walls which in turn would entrap fugitive dust and reduce the amount of dust deposition which would fall outside the subject site. Of course, it is open to the Board to attach such a condition should it deem it appropriate.

10.3. Impact on the Adjoining Protected Structure at No. 2 Grand Parade, former Carrolls Building

10.3.1. Many of the third-party appellants raise concerns about the impact the proposed new office block will have on the context and setting of the former Carrolls building, a protected structure in the development plan. Most vocal in terms of this impact are the submissions by Mr. Alex Kearney (DoCoMoMo) and Professor Alister Rowan. A very detailed analysis critical of the works undertaken as part of the proposal was submitted by Alexander and Joseph Kearney as part of the original grounds of appeal and these concerns were augmented by Mr. Kearney's submission to the oral hearing. Among the many concerns expressed are:

- The subject building was conceived and designed as a standalone building, with each external elevation being of equal importance (or "in the round" - a term used throughout the oral hearing) and the proposed extension to the rear of the building would diminish and destroy the context of the building.
- The building in question is one of a few buildings which dates from the modernist era within the city and for this reason it should be afforded special protection "in the round"
- The proposed new office development, at twice the size of the existing former Carroll's building will overwhelm the existing protected structure to the extent that the protected structure would appear ancillary to the proposed office unit.
- The proposed alterations to be incorporated into the current design are neither minimal or discreet.
- The replacement of original features particularly the fenestration will transform the classic building into a more anonymous non-descript building.

I propose to deal with each of these issues in turn.

10.3.2. Impact on Carrolls Building as a Standalone Structure

The former Carroll's building appears to be a classic example of modernist architecture in Dublin City. Built between 1962 and 1964 the building, according to the various submissions contained on file, and be equated in terms of its architectural importance to buildings such as Busaras, the original Airport Terminal building, the Berkley Library in TCD and the Bank of Ireland building on Baggot Street. It is argued that these buildings, along with the building in question, constitute the finest examples of modern architecture in Dublin and in Ireland.

The building consists of office space on Pilotis over a recessed mezzanine level with an open ground floor. The building is constructed and clad with Portland stone not unlike Michael Scott's earlier Busaras building. The appellants highlight the fact that the inordinate attention to detail on all facades of the building make it a truly unique and iconic building of the modernist era. These points are particularly highlighted in Professor Alister Rowan's submission and the submission by Alex Kearney contained on file. Professor Rowan in his submission at the oral hearing equated the building's status to Smithsons 'Economist Building' in James Street, London and Nervi's 'Pirelli Tower' in Milan, two very famous iconic buildings associated with the finer aspects of mid-20th century architecture. All parties are in general agreement that the former Carrolls building constitutes one of the best examples of modern architecture in Dublin and contributes significantly to the portfolio of modernist architecture in the city. All parties are also in agreement that the building attempts, and succeeds (albeit to varying degrees) in achieving Le Corbusiers five points of architecture namely:

- Pilotis – replacement of supporting walls by grid columns to form a particular aesthetic.
- The free designing of the ground plan with the absence of supporting walls creating a floating effect which is unrestrained in its internal use.
- The free design of the façade – separating the exterior of the building from its structural function which sets the façade free from structural constraints.

- The horizontal window which cuts the façade along its entire length and provides for an equal distribution of light within each room.
- Roof gardens on a flat roof which can serve a domestic purpose while providing the essential protection to the concrete roof.

The building in question at ground floor level incorporates a former lecture hall with its curved outer wall comprising of yellow Dolphin Barn brick is expressed as a separate and striking visual element at the eastern end of the building.

The building was added to the Record of Protected Structures in 1999, and according to the evidence of Ms. Conway, Planning Officer of Dublin City Council at the oral hearing the building remains one of only a handful, (certainly less than a dozen), modern buildings from this era to be added to the RPS within the city. The building was designed by the renowned architects Robinson Keefe and Devane. The building received a commendation from the RIAI Triennial Gold Medal jury for the period 1962 to 1964. The fact that it was Patrick Robinson's final design (he died of a stroke while working on it) adds to its historical architectural importance. In fairness to the applicants, they never once sought during the proceedings of the oral hearing or indeed on the information contained on file to downplay the architectural importance or significance of the building. The main issue of contention is whether or not all the external elevations can be treated as being of equal importance and whether or not the alterations proposed hold true to the architectural importance of the structure.

Many of the third-party appellants and indeed the DCC Conservation Officer's report on file argues that the building needs to be appreciated "in the round" that each of the elevations of the building constitutes design of great sophistication and refinement. As such it is argued that each of the elevations, including the rear elevation is required to be retained unaltered and should not be diminished by the incorporation of a large extension appended to the rear.

The applicants on the other hand argue that in order to reinstate the building to its original architectural eminence, it is necessary to strip out many of the additions which were incorporated in the 1995 grant of planning permission. This necessitates it is argued, in order to comply with current Building Regulations, that a service core (toilets, lifts etc.) to serve the former Carroll's building must be incorporated in an

extension which by necessity, is required to be attached to the building. The applicants go on to argue that the former Carrolls building should not be conceived as a standalone structure whereby each of the elevations are of equal importance. For example, Mr. James Slattery during the proceedings of the oral hearing argued that the former Carroll's building in its original design was not conceived in the same way as for example the Custom House was conceived, whereby each elevation is surrounded by public thoroughfares and vantage points to enable a person to appreciate each of the facades equally.

Mr. Slattery's interpretation of the building is not shared by many of the current contemporary architects working in Dublin. Mr. Kearney submitted a letter at the oral hearing supporting the grounds of appeal by some very prominent architects involved in the DoCoMoMo Association in Dublin. This letter suggested that the alterations and in particular the extension to the rear of the building constitute a too great an intrusion on the building and chief amongst the concerns are *"the joining of a new six-storey office block to the rear façade of the former Carrolls building by means of a seven-storey glazed atrium and solid circulation/services core would deface a major elevation of a protected structure and compromise the status of the building conceived fully in the round"*.

Notwithstanding the fact that the building currently backs onto a private area and a number of derelict former industrial buildings, the building in my opinion was conceived and design as a standalone structure which confidently addresses the canal. The conceived standalone nature of the building is obvious in that as much attention was paid to the detailed design of the rear of the building as the front elevation the rear of the building incorporates the same Portland stone finishes and the same detail to glazing as the front elevation. Similarly, the east elevation with its extensive glazing exposing the internal stairwells results in a very interesting architectural composition which enlivens the façade. This to me, indicates that each of the elevations were given equal status in terms of the overall composition of the building. While the setting of the rear elevation has been somewhat compromised by newer single-storey and three-storey extensions to the rear these extensions can be demolished and do not in any way diminish the status of the rear elevation. I would agree with the appellants that the reopening of the former Harcourt Street rail alignment by way of the new Luas Green line opens up and presents new

unobstructed views and prospects of the rear elevation which were previously not available (the former Harcourt Street railway line was not in operation at the time the building was conceived and constructed). In many respects the Luas line has made a totality of the building which is much more visually acceptable and further highlights the importance and setting of the context of the building.

The Board in my opinion should consider very carefully the impact that the proposed new office element would have to the setting of the existing building. It would obscure circa half of the rear elevation and would greatly compromise the standalone setting of the building and would obliterate the original conception of the building as a standalone structure to be seen and appreciated in the round. I do not consider that any extension to many of the landmark buildings, contemporary or otherwise on any of the landmark protected structures throughout the city dating from the 18th, 19th or early 20th century would be countenanced by way of a planning application. Indeed, it is unlikely that an extension to the Busaras building would be tolerated as this building is held as an iconic building of the early modern movement in Dublin City.

While the proposal seeks to incorporate a light filled glazed atrium between the extant former Carrolls building and the new office development it would in my opinion fundamentally affect and obscure the standalone setting of the original building. With this in mind, I would be extremely reluctant to recommend a grant of planning permission for a structure that so profoundly and fundamentally impacts on the setting of the former Carrolls building. I would refer to the oral submission made at the oral hearing by Professor Alister Rowan where it is stated “there is much in this building to delight a careful analysis and I cannot accept the suggestion that the south front is, in any way inferior to the other sides. The Carrolls building is a monumental modern structure that has to be seen in the round”.

As already stated the applicant’s argument for incorporating an extension to the existing building is predicated on the need to restore and respect many of the original features of the building including the open plan nature of each of the floors on the building. It is argued that in order to do this, and in order to bring the building up to modern requirements under the Building Regulations, it is necessary to provide the service core areas outside but attached to the former Carrolls building. I would agree with the sentiments raised in many of the appellant’s arguments that the

incorporation of a new large contemporary extension to the rear of the building, specifically to reinstate the internal layout as originally conceived, designed and constructed, is too great a price to pay in order to achieve this objective. It would be possible to incorporate the core services areas within the original layout and such alterations would be more concealed within the blank west elevation. While the incorporation and relocation of lifts and bathrooms into the original building against the west wall which is largely solid may not be in accordance and may not hold true to the original design of the building, It would allow the building to remain as a standalone entity which could be appreciated 'in the round'. The vast majority of the citizens of Dublin will only experience the building from the outside and it is critically important in my view, that the external appearance should be maintained and preserved as far as practically possible as a fine example of modernist architecture in the city.

The more zealous architectural historian may disagree with the idea of incorporating the service cores within the former Carrolls building in order to comply with the Building Regulations on the grounds that it undermines the original architectural principle involved in the conception of the building, including the provision of open floor plans and along its entire length and providing for an equal distribution of light within each room. I would argue that, in order to keep such an important architectural building in use, in accordance with one of the key objectives of the Architectural Protection Heritage Guidelines, a somewhat pragmatic approach must be taken in order to find appropriate compromises to ensure the building does not fall into disuse and ultimately disrepair which is in nobody's interests and would not be in accordance with the proper planning and sustainable development of the area.

In conclusion therefore while I have argued previously in my assessment that there is a need to increase densities on brownfield sites in appropriate locations close to public transport corridors etc., and furthermore I have argued that the proposed development would have an acceptable impact on the Dartmouth Square ACA, there is no doubt in my mind that No. 2 Grand Parade was conceived and designed as a standalone building. The building in my opinion and in the opinion of many of the appellants should be read as an isolated modern standalone building fronting onto the canal. The careful attention to detail on all facades is apparent in the design and this reinforces my conclusion that the building was conceived 'in the round'. The

proposed new office development severely compromises the setting and context in which the building is located. I accept that only occasional glimpses of the rear façade of the building are available from vantage points in and around Dartmouth Road. However, Photo No. 19 of my site inspection photographs clearly indicates that some unobstructed views are available from Dartmouth Road. However, the rear façade of the building has more readily been brought into the public domain with the opening of the Luas line adjacent to the western side of the building. The Luas line now offers elevated views of the rear façade for people travelling along this public transport route. Thus, in my opinion the rationale behind the design of this modernist building is severely compromised by the juxtapositioning of the new office development contiguous to the rear elevation of the former Carrolls building. Therefore, any proposals to redevelop the site should in my opinion seek to ensure a physical separation between any new build from the protected structure. Finally, having regard to the fundamental changes involved (the omission of the glazed atrium area, the relocation of the serviced core areas within the former Carrolls building etc.), I do not consider that this issue could be adequately dealt with by way of condition as the changes required would be too profound in nature.

10.3.3. *Other Alterations to the Former Carroll's Building*

With regard to the proposed alterations to the former Carrolls building concerns were expressed that the alterations go too far and severely compromise the architectural setting of the structure.

With regard to these arguments, it should be borne in mind that the building has been the subject of extensive renovation and alterations in the mid-1990s. Of major concern, expressed in the appeal by Mr. Kearney is the replacement of the fenestration and the Morris Singer system of glazing. The Morris Singer system comprised of a composite mild and pressed galvanised steel frame on external cladding sometimes in bronze and sometimes in stainless steel (it appears that a composite was used in the case of No. 2 Grand Parade). Evidence has been submitted in the response to the grounds of appeal and at the oral hearing that corrosion has taken place within the window frames (see Appendix 6 of appellants' responses and the oral hearing submission by Mr. James Slattery). The response also suggests that the Morris Singer system is not a finely crafted window design such as a more traditional sash window but a somewhat more crudely fashioned

manufactured system which is not capable of authentic conservation in a way that historic joinery is. Much debate revolved around whether or not the Morris Singer system of fenestration was a feature of special interest in the overall design during the proceedings of the oral hearing.

The Architectural Heritage Protection Guidelines, as already mentioned above, highlight the importance of keeping protected structures occupied and in use. This is generally recognised as the best method of conserving historic buildings. Having regard to the information contained on file, I am satisfied that the replacement works on the fenestration of the building are necessary in order to allow it to perform a modern day function and comply with the Building Regulations and modern energy efficient standards. Notwithstanding this point, the applicants have submitted an alternative proposal for glazing which will provide replica stainless steel capping in lieu of the frameless proposals. This in my view is a reasonable and pragmatic approach in dealing with the fenestration issue.

Mr. Kearney in his submission on behalf of DoCoMoMo has adopted a somewhat purer and uncompromising approach to conserving all elements and reinstatements to the building. While this may be laudable in conservation terms, it is in my view less pragmatic particularly if the building is to be kept in use. Some flexibility in my view needs to be afforded to the reinstatement of the building. The building must be marketable as contemporary office use in order to be occupied, to this end it must be able to compete equitably with other office buildings, in terms of energy requirements etc in order to attract clients and future occupants.

The applicants have indicated that the Morris Singer system can be replicated with a very similar finish and in this regard it is proposed to replace like with like. I would agree with Mr. Slattery's statement that the original material in the glazing elements have failed and these need to be replaced and that these elements can be adapted with higher quality replacement elements that can replicate and enhance the original character by reusing stainless steel for the cappings. This in my view constitutes a reasonable and pragmatic approach in bringing the building up to modern day standards without severely compromising the architectural integrity of the building.

The proposed alterations to the attic area, which involve the extension of the fenestration along the current western blank portion of the façade. This in my view

would have a very minor impact on the overall composition of the building. The recessed element is not visible from street level along Grand Parade. However, if the Board have any concerns in respect of these alterations if it decides to grant planning permission, it could in my view omit these alterations by way of condition.

While the appeal on behalf of Mr. Kearney acknowledges the positive impacts arising from the restoration of the ground floor elements including the restoration of the sunken pond areas and the restoration of the Louis Le Brocquy artwork etc, Mr. Kearney nevertheless suggests that there are some serious concerns particularly in relation to incorporating an additional glazed area at the former loading bay in the eastern portion of the building to open up views of the café. Again, it is open to the Board to omit these proposed alterations by way of condition if the Board considers that these alterations represent a significant departure from the original fabric of the building. I would be inclined to agree with the applicant that the incorporation of new glazing in the original curved brick loading bay will provide greater animation and natural light to the undercroft area which will assist in revitalising and creating a new sense of vitality within this area. The proposed alterations to this part of the undercroft is not readily visible from vantage points along the canal and as such will not significantly alter the appearance of the building. The provision of a café and increased glazing area will in my opinion help animate and invigorate the undercroft area.

The applicant has also indicated that the boarding of the undercroft will be retained and replaced like with like where possible.

In conclusion therefore, it is my considered opinion that with the exception of the proposed extension to the rear, the alterations which are challenged by the appellants are relatively minor in nature and are on the whole acceptable. I consider that the applicants have demonstrated a good deal of enthusiasm and goodwill towards restoring the building back to its original layout and, with the exception of the extension, these alterations in my view are on the whole acceptable and represent a pragmatic approach in balancing the restoration of the building while adopting it to modern day needs. However, if the Board do not agree with my conclusions I consider that many of these issues can be addressed by way of condition. I would reiterate that my major concerns relate to the impact of the proposed office extension on the setting and context of the protected structure.

10.4. **Contravention of the Zoning Objectives in the Development Plan**

10.4.1. *Land Use Zoning Objective*

I note that the Planning Authority did not raise any concerns in relation to the development contravening the land use zoning objective set out in the development plan. The Z6 zoning objective seeks to facilitate employment. The proposed office development will facilitate this objective. Section 2.3.11 of the Development Plan also seeks to facilitate intensification of employment activities along public transport corridors in order to underpin a compact and sustainable city. The development plan further points out that the primary land use zoning objective is for employment use. While office development is only open for consideration under the zoning matrix, it is not a non-permitted land use and therefore can be adjudicated on its merits. Furthermore, contrary to what it is stated in some of the grounds of appeal, the proposed development in this instance does not constitute 100% office space as it is proposed to incorporate a café and restaurant use at ground floor level and a gallery and multi-purpose space at first floor level.

With regard to the argument that such largescale office development should only be permitted within the city centre, I can find no specific statement in the development plan which would preclude largescale office development outside the canal. The subject site located at the edge of the city centre adjacent to the Grand Canal and there are plenty of precedents on both sides of the Canal where largescale office development has been permitted including the site adjacent to No. 2 at No. 1 Grand Parade where a six-storey office block was permitted in c.2010. The applicant has also cited precedent where the Board have granted planning permission for large scale office development outside the canal including developments at Burlington Road and the AIB Centre in Ballsbridge.

With regard to arguments put forward by Patrick and Caitriona Shaffrey et al suggesting that there is a surplus of office space already in the city, I would argue that it is not the purpose or requirement of An Bord Pleanála to prescriptively analyse market demand with regard to office, demand for such space is constantly changing overtime. The Board is guided by the land use zoning objective as it relates to the site and the proper planning and sustainable development of the area. I have argued

above having regard to the land use zoning objective and precedent decisions in the wider area, that office development is appropriate for the subject site.

10.4.2. *Impact on Transitional Zones*

Two of the appellants argue that the proposal represents an abrupt transition in building height between different land use zones and as such, it is contrary to Section 14.7 of the development plan. This argument was also raised by Mr. James Kelly conservation architect on behalf of Elizabeth Vandenburghe during the proceedings of the oral hearing. I would not necessarily agree with this assertion, there is an existing eight-storey building on site and the proposed development involves stepping down the structure from a five to three-storey building as one moves closer to the houses on Dartmouth Square. The proposal therefore respects the requirement for a transition in scale between adjoining land uses.

10.4.3. *Building Heights*

Concern is also expressed in some of the appeals that the proposal contravenes Dublin City Council's policies in relation to building heights. The site is located in a designated low rise area of the city. At rail hubs building heights of up to 24 metres are permitted. The original glazed atrium rose to a height of 30.54 metres and this was reduced to a height of 29.26 metres by way of additional information. However, the development plan also states (page 320) that where a site has a pre-existing height over that stipulated above, a building of the same number of storeys may be permitted subject to assessment against the standards set out elsewhere in the development plan and the submission of an urban design statement. In this context I consider the height of the proposal to be acceptable.

10.5. *Traffic Considerations*

Potential traffic overflow in Dartmouth Square ACA has already been addressed previously in this assessment. However, a number of other traffic and transport issues were raised in the grounds of appeal and these are dealt below.

10.5.1. *Trip Generation*

Arguments have been put forward that the applicant has overestimated the historic trip generation associated with the existing 94 spaces on site. The appellants suggest that historically the existing spaces were never fully utilised under previous

uses on the site. As such, it is argued that the appellants' assertion that the proposal will result in less trip generation than previous office use on the site is incorrect. I do not consider that any historical trip generation associated with the site is a critical factor in determining the current appeal. The trip generation arising from 35 car parking spaces will not have a significant or detrimental impact on contributing to traffic congestion in and around the site. The transport statement submitted with the application assesses the trip generation and reasonably concludes in my opinion that the additional trip generation during the AM and PM peak will be both modest and acceptable. Contrary to what is stated in some of the appeals, trip generation to and from the site outside the AM and PM peak time are likewise not critical considerations in determining the traffic impact arising from the scheme.

With regard to the argument that all traffic to and from the site should be directed to use the access on Grand Parade, the trip distribution (see Section 5.2 of the Transport Statement) indicates that the AM and PM peak combined will amount to approximately 30 car movements to and from the site. This is a modest amount of trip generation and will not significantly impact on the amenity of the residents of Dartmouth Square.

Notwithstanding what is stated in one of the grounds of appeal, Section 2 of the Demolition and Construction Management Plan specifically deals with traffic. In addressing other concerns raised in the grounds of appeal, the plan clearly and unambiguously states that off-street car parking will be provided for all construction workers on site. While HGV movements will inevitably give rise to increases in noise and congestion, all construction projects give rise to increased HGV movements through deliveries etc. This is an inevitable consequence of construction and will be temporary in nature. It does not constitute reasonable grounds for refusal in my opinion. Mitigation measures aimed at reducing the impact arising from HGV traffic and construction traffic are set out in Section 2.3 of the above plan.

The Board will be aware from the proceedings of the oral hearing that the applicant has indicated that there will be no objection to the incorporation of a condition requiring all HGV deliveries to and from the site to occur at the Grand Parade entrance and that the Dartmouth Road entrance would be used as an emergency access only.

With regard to service and delivery vehicles, I consider that there is sufficient room on site to adequately cater for service and delivery vehicles. All servicing of the existing and proposed office development can take place off-site within the confines of the site boundaries in accordance with proper traffic management principles.

Finally, in relation to the main traffic concerns highlighted, one of the grounds of appeal suggested a separate application for planning permission should have been made for an internal access road through the site. The Board will note that the site seeks to utilise an existing access and egress from Grand Parade and Dartmouth Road respectively. This road constitutes a private access route through the site which will be controlled by barriers. It does not constitute a public thoroughfare and details of the internal access road have been submitted with the current application. As such it does not require a separate grant of planning permission. I note that the Roads and Traffic Planning Department of Dublin City Council also concur with this view.

10.6. ***Impact on Proposed Metro Route***

Concerns were raised specifically in the appeal on behalf of the residents of Dartmouth Square West that the proposal could impact on the stability of the Luas line and that the proposed basement levels could compromise the location and alignment of any underground Metro Station to be located in the vicinity. The latter issue was elaborated upon during the oral submission by Jerry Barnes, Planning Consultant during the proceedings of the oral hearing. I would refer the Board to the contents of the oral hearing submission by Mr. Barnes on behalf of the appellants for full details of the background to the metro-link studies undertaken on behalf of the NTA. The submission sets out details of the proposed Metrolink studies and it was noted that the recommended option was 4(B). An illustration of this preferred option is indicated on Page 10 of Mr. Barnes submission. It shows that the proposed underground station was to be located directly under the Carrolls building and the subject site. The submission goes on to argue that this was a very logical alignment for any future tie-in option with the existing Luas alignment. It goes on to argue that on foot of the proposed development, the preferred option was changed to Option 4(D), which relocates the proposed underground station to the rear of the former Carroll's building and further east within the subject site. It is argued that this shifting of alignment has not been appraised against other options and has not been subject

to any detailed scrutiny or evaluation. It is suggested that the reliance on the new preferred option (Option 4(D)) is premature and would be prejudicial to the consideration of any future optional alignments were the development as proposed is to go ahead.

In response to this insertion the Board will note that issues with regard to the metro-link and the potential compromise of any such alignment as a result of the proposed development were raised by Dublin City Council in its additional information request and clarification of additional information request. The applicant was required to liaise and agree an option that was suitable to both Transport Infrastructure Ireland and the NTA. Representatives from both Transport Infrastructure Ireland and the NTA were available at the oral hearing and made brief submissions and answered questions in relation to the various alignment options associated with the Metrolink. It is clear to me from the written documentation contained on file and the statements issued by the TII and the NTA during the questioning and cross examination that both the NTA and TII have had extensive discussions with the application in relation to the interface between the development proposals and the planned Metrolink scheme and that both State organisations support the grant of planning consent in respect of the proposed development subject to the inclusion of appropriate conditions. Any metro-link alignment will be the subject of a separate Railway Order under the Transport Act 2001 (as amended) and it is not the purpose of the current application to explore preferred alignments for such infrastructure in any great detail. Notwithstanding this, the Board must be satisfied that the grant of planning permission for this development (or any other development for that matter) will in no way undermine the delivery of this critical piece of infrastructure. If the Board come to the conclusion that the proposal could undermine the most appropriate and efficient delivery of the metro-project, it must in my view, refuse planning permission in grounds of prematurity.

I therefore acknowledge that the provision of a Metrolink through Dublin City Centre is of high strategic importance in land use transportation terms going forward and that no future development should in any way jeopardise or constrain options in a material for the delivery of such critical infrastructure. I find it difficult to recommend refusal of planning permission on the grounds suggested in the appeal when Transport Infrastructure Ireland and in particular the National Transport Authority

which is entrusted to deliver such infrastructure do not object to the proposed development and indeed support the grant of planning consent in respect of the proposed development.

If the Board were to refuse permission on the basis of prematurity pending agreement of detailed alignments and details of stations layouts etc, where both the NTA and TII (the agencies entrusted in delivering such projects) do not object and indeed support the development, it could in my view set an undesirable precedent for halting development at sites on, or in proximity to the metro-link alignment for a considerable period of time and until such time that the project is delivered. This could have profound implication for the rejuvenation of many brownfield and under developed sites along the alignment.

Having conducted the proceedings of the oral hearing, I am satisfied that both Transport Infrastructure Ireland and the National Transport Authority's concerns in relation to the delivery of the Metrolink have been placated with regard to the delivery of this infrastructure in and beneath the site in question. It would be inappropriate in my view that the Board would refuse planning permission on the grounds suggested in the appeal with regard to prematurity where neither of the agencies involved in delivering critical infrastructure in respect of transport have expressed such concerns.

Both the TII and the NTA are satisfied that any structural or engineering issues can be addressed at detailed design stage. It is common protocol for the Board to address these issues with a condition requiring the developer to submit and agree details with appropriate agencies to ensure that the said infrastructure can be delivered in a safe and appropriate manner. The Board have incorporated such a condition for an office development (with basement) on the northern side of the Canal directly opposite the site at Charlemont Place (see Reg. Ref. 29S.240817).

Reference is made in the grounds of appeal and throughout the proceedings of the oral hearing to a decision made by the Board under Reg. Ref. ABP300446-17 where the Board refused planning permission for an office development at Sandwith Street on grounds of prematurity with regard to the provision of a Dart Underground station. However, the critical difference in this case was that Iarnrod Eireann infrastructure submitted an observation objecting to the grant of planning permission on the

grounds that the proposal introduces risks and constraints to the Dart Underground project. No such concerns have been raised by transport agencies involved in delivering the project in respect of the current application before the Board.

Based on the evidence submitted, it is apparent that there are no objections in principle from either the NTA or the TII subject to detailed agreement being reached in respect of detailed matters. In fact, the NTA went further in stating at the proceedings of the oral hearing that they support the grant of planning consent in respect of the development.

TII are also satisfied that the proposal can be delivered without impacting on the adjacent LUAS line. There are statutory Regulations and protocols in carrying out works close or adjacent to LUAS lines and these can be adequately addressed by way of condition should the Board consider it appropriate to grant planning permission for the development. Finally I note that the potential impact on the LUAS line, notwithstanding the fact that it was raised as an issue in the initial written statements to the Board, did not present itself as a major issue in the grounds of appeal.

10.7. Drainage and Flooding Issues

A number of appeals highlighted numerous concerns in relation to what they consider to be obsolete and inadequate drainage infrastructure serving the site. Amongst the concerns raised included arguments that the area is served by a combined sewer which is the subject of periodic surcharge during periods of heavy rainfall. It is also suggested that the combined sewer may accommodate a culverted stream "The Swan" which exacerbates flooding during periods of heavy rainfall. Reference is made to a number of flooding events which have occurred including events in 2009 and 2011 where the rear gardens and basement areas of the building on Dartmouth Square suffered flooding.

In relation to these issues I note from the outset that Dublin City Council Drainage Department did not object to the proposed development on the grounds of inadequate drainage. It was suggested by the evidence of Mr. Leo Crehan on behalf of the appellants that this would be a more suitable alternative. However, according to the information submitted at the oral hearing on behalf of the applicant, Dublin City

Council do object to the applicant connecting into the Grand Canal Trunk Drainage Sewer which runs to the north of the site.

Information contained on file (see Appendix 4 of Appellants' Response to the Grounds of Appeal and all evidence submitted by Mr. Sturgeon on behalf of the applicant during the proceedings of the oral hearing) indicated that surface water run-off from the site is currently unattenuated and discharges directly into the combined sewer system. The infrastructure design report submitted with the application indicates that, in accordance with the requirements of the GDFDS, a SuDS system will be incorporated for managing storm water from the facility. While there will be no change in the drainage infrastructure serving the Carrolls building, the remainder of the site will incorporate more sustainable storm drainage systems which will limit the run-off associated with the new development to circa 2 l/s. It is calculated that the surface water run-off associated with the existing development can result in a maximum discharge of 80 l/s. The calculated figures submitted on behalf of the applicant indicates that the more sustainable urban drainage system to be incorporated into the new elements of the proposal together with the existing Carrolls building will result in a maximum discharge of c.18 l/s. This constitutes a reduction in surface water discharge of approximately 75%. This represents a significant improvement over and above the situation that currently exists on site.

Concerns are also expressed that the existing drainage water infrastructure serving the site has not been adequately detailed in the drawings submitted. I cannot verify whether or not the detailed drainage arrangements are accurately shown on the drawings submitted. However, as the proposed development will result in a significant reduction in storm water discharge off the site this should attenuate and allay fears that the proposed development will exacerbate flooding in and around the Dartmouth Square area. Based on the figures presented, I can only conclude that the proposed development will reduce the potential for surcharging within the existing sewage system and will therefore not exacerbate flooding.

Finally, in relation to this issue the applicant's response to the grounds of appeal indicate that Irish Water raise no concerns in relation to capacity issues in the existing foul sewerage network.

In relation to groundwater displacement I consider that the size and scale of the basement proposal would have no material impact on groundwater levels in the area.

10.8. Procedural Issues

The submission by McCabe Durney Barnes in both the grounds of appeal and the oral hearing suggest that there are a number of procedural flaws specifically in relation to the additional information request. The grounds of appeal make the distinction between Article 33 which relates to further information requests and Article 34 which permits the Planning Authority to request revised plans. The request for further information by Dublin City Council was specifically referred to as “*further information in accordance with Article 33 and/or Article 34 of the Planning and Development Regulations 2001 (as amended)*”. This appears to me to encompass a catchall scenario in respect of further information sought. I consider that notice issued by the Planning Authority has sufficient scope to accept further information received under the provisions of Article 33 or Article 34. The planning notice clearly indicates that “further information” is being sought under the provisions of Article 33 and as such it is not unreasonable that the applicant be permitted to submit information in accordance with the provisions of the said Article and therefore the six-months timeframe for submitting information would apply to the application before the Board. In my view therefore, the Board is not restricted or precluded from considering either the further information or the clarification of further information submitted by the applicant on the grounds suggested in the appeal i.e. that this information was submitted outside the appropriate period.

With regard to new public notices under Article 35, it appears from the wording of the Article that it is at the complete discretion of the Planning Authority as to whether or not the readvertisement is necessary. In this instance it appears that the Planning Authority consider the information submitted did not justify or warrant revised notices. This in my view is a matter for the Planning Authority and not for the Board. Furthermore, the appellants were afforded the opportunity to discuss and comment on the revised drawings during the proceedings of the oral hearing and therefore in my view, public participation in determining the application has not been in any way prejudiced.

Based on the argument set out above I consider that the Board can consider the revised drawings and the additional information in determining the application before it.

10.9. **Other Issues**

A number of other, perhaps less important issues were raised in the various appeals which are briefly commented on below. It is argued in more than one appeal that the site would be more suitable for blocks of 2/3 storey apartments on the grounds that this would have a much lesser impact on the residential amenities of the area and the context and setting of the Architectural Conservation Area and the former Carroll's Building. In response I would argue that the provision of an exclusive residential development may not be in accordance with the Z6 land use zoning objective which seeks to facilitate employment creation on the said lands.

Furthermore, such a low density of development would undermine and dilute the strategic aims of the National Planning Framework which seeks to provide sustainable quantum of development on brownfield serviced sites in close proximity to public transport corridors.

A number of concerns were raised in respect of the tree felling/pruning of trees which have apparently taken place on site. I would argue that this is not a matter for An Bord Pleanála for the purposes of determining the current application.

Likewise, any oversailing of cranes into the airspace above the appellants' curtilage during the construction period is a legal matter and is not a material consideration in determining the application before the Board.

Any issues in respect of security, vermin control and anti-social behaviour on site is a matter to be addressed during the construction and demolition process. These issues can be adequately addressed by proper on-site management and could be adequately dealt with by way of condition.

Finally, I do not accept that the proposed development will have any adverse impact on the ecology of the canal as suggested by one appeal. Having regard to the existing urban environment and the separation distance between the works to be undertaken and the canal I do not consider the proposal represents a significant and material threat to the ecology associated with the canal. The canal is not designated as a Natura 2000 site.

11.0 Appropriate Assessment

Having regard to the nature and scale of the proposed development and nature of the receiving environment together with the proximity to the nearest European site, no Appropriate Assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

I note that no issues in relation to appropriate assessment or impact on Natura 2000 sites were raised as issues whatsoever in any of the appeal submissions or during the proceedings of the oral hearing.

12.0 Conclusions and Recommendations

Arising from my assessment above I would set out the following conclusions in relation to the proposed development.

- The proposal will have a minimal and therefore acceptable impact on the setting and character of the Dartmouth Square Architectural Conservation Area.
- The proposal would not have a significant impact on the dwellings along the western boundary of the site (i.e. the dwellings on Dartmouth Square West) in terms of overshadowing and I further consider that with the incorporation of appropriate mitigation measures issues in relation to overlooking, the latter concern could be adequately addressed also.
- I consider that the overall quantum and the aesthetic design of development on site to be acceptable having regard to the site's strategic location at the edge of the city centre adjacent to a high quality public transport corridor and therefore would fulfil the criteria set out in the various strategic planning guidelines as the site is in my view most suitable to accommodate a higher density of development.
- I also consider that the development of the subject site as proposed will not give rise to or exacerbate problems in any material extent in terms of traffic issues or drainage issues.

- However, I would have significant concerns that the design and configuration of the proposed office extension would profoundly and materially adversely affect the setting of the former Carrolls building at No. 2 Grand Parade. Information provided on file and at the oral hearing has highlighted the importance of the building as one of the best examples of the architecture associated with mid-20th century modernist movement in the city. I am also satisfied that the building was conceived and designed as a standalone structure to be viewed ‘in the round’. The proposal which incorporates an appendage to the protected structure would in my view profoundly and irreversibly diminish the setting of the protected structure and as such is contrary to the proper planning and sustainable development of the area. I therefore recommend that planning permission be refused for the sole reason set out below.

13.0 Reasons and Considerations

1. It is considered that the proposed office extension to the rear of No. 2 Grand Parade which involves the incorporation of a glazed atrium contiguous to the rear elevation of the former Carrolls building at No. 2 Grand Parade, a building which is listed in the Record of Protected Structures in the current Dublin City Development Plan 2016 – 2022 would adversely affect the setting, character and architectural integrity of the protected structure and as such would seriously injure the visual amenities of the area and would, therefore, be contrary to the proper planning and sustainable development of the area.

Paul Caprani,
Senior Planning Inspector

27th July, 2018.

APPENDIX 1

14.0 Proceedings of the Oral Hearing

DAY 1

An Oral Hearing was held in the Board's offices in respect of the proposed development on 12th and 13th July, 2018.

14.1. Introduction by Presiding Inspector

The hearing commenced at 10 a.m. with a formal introduction by the Inspector setting out the proposed procedures and order of speakers at the hearing. After a preliminary roll call and some discussion in respect of the presentations to be made, the inspector called upon the applicant to make a formal presentation to the hearing.

15.0 Submission by the Applicant

Mr. Eamonn Galligan SC indicated that a total of 8 presentations would be made on behalf of the applicant in relation to the above scheme and these submissions are summarised below.

15.1. Submission from Finion Creenan, Architect of Henry J. Lyons Architects

This submission outlined the history of the building on the site and argues that the site is dominated by the existing protected structure. The submission sets out details of the proposed intervention including the interventions to the existing protected structure together with the proposed extensions on the proposed setbacks from the eastern boundary of the site. It is argued that the building was conceived to adhere to Le Corbusier's 'five points of architecture', and it was argued that, while the building has undergone substantial alteration particularly in relation to its original interiors, the proposal will seek to reinstate many of the original features. The submission sets out details of the building condition highlighting problems with the façade and the existing windows on site. The submission also highlights the accommodation deficiencies currently present within the existing building. It is argued that the proposed interventions within the existing building and the proposed extension seeks to stay true to the original design concepts. It is argued that the

provision of a new atrium and plaza area to the rear of the building will enhance connectivity and significantly improve the public realm. The submission goes on to detail the proposed alterations and interventions proposed within the existing structure and also provides details of the proposed landscaping throughout the site. Details of the proposed massing and the design with regard to the existing structure, the proposed glazed link and atrium between the existing structure and the proposed extension and details of the proposed extension are also set out. The submission goes on to provide details of the existing glazing module and argues that the proposed replacement glazing will enhance the appearance of the building while remaining true to the original design context. Details of the design intent for the ground floor approach and undercroft of the building are also set out. It is argued that the proposed design and massing of the extension ensures that it remains subservient to the main structure on site.

15.2. Submission from John Spain Town Planning Consultant

Mr. Spain's submission sets out the planning context, making specific reference to the Dublin City Development Plan and the land use zoning relating to the site and the plans and policies in relation to built heritage, conservation areas, building heights and car and cycle standards. The submission went on to outline national and regional planning policy highlighting the policies in the National Planning Framework and the need to develop infill brownfield development sites in urban centres at higher and more sustainable densities. It notes that the NPF priorities the intensification of land use within existing built up areas. The report also sets out details of the National Development Plan and the Metrolink proposals. It notes that there is proposal for a Metrolink underground station at Charlemont when the preferred route map was published in March, 2018.

The submission also makes reference to policies contained in the Architectural Heritage Guidelines 2007, and it is noted that the best way to prolong the life of a protected structure is to keep it in active use, ideally its original use. The final section of the submission specifically addresses issues raised in the third-party appeals. It addresses concerns in relation to the wording of Condition No. 3 which requires agreements to be reached with third parties (the NTA/TII). It also addresses concerns in respect of procedural matters including the accuracy of the application drawings, the accuracy of the sunlight and daylight assessment, the visual impact

arising from the proposal and the impact on that architectural heritage area and the potential impact on residential amenity. Finally, it addresses concerns raised in third party appeals in respect of building height and density.

15.3. **Submission by James Slattery, Conservation Architect.**

This submission specifically dealt with the architectural heritage of the site and specifically the former Carroll's Building. This submission sets out details of Mr Slattery's role in the project which included attendance at pre-application consultations with the Planning Authority and the preparation of the Architectural Heritage Assessment Report. It sets out details of the extent of alterations to the original building and it states there has been a significant change to the building fabric since its opening in 1964. Significant interventions took place in 1995 as part of the proposal to adopt the building as the Irish Nationwide head offices. Details of the works carried out in 1995 are set out in the submission.

It goes on to set out the architectural significance of the former Carroll's building and it is noted that the building has stood the test of time and is clearly of considerable architectural significance despite the alterations to it and the loss of its interiors. It notes that the building attempts to embody Le Corbusier's principles set out in 'Towards New Architecture' in deliberately seeking to liberate the ground floor plane. Mr Slattery argues that the 'floating building' experience is one of the key elements of Le Corbusier's design principles. The submission goes on to assess the building paying particular attention to:

- The undercroft area.
- The four elevations.
- The glazing.
- The interiors.
- The materials used.

When specifically asked by the planning inspector into the importance of the Morris Singer system which was incorporated in the window design, Mr. Slattery indicated that this architectural element, in his view, was not a particularly important feature of interest associated with the building. In relation to the elevational treatment, Mr. Slattery argues that the rear façade is not as an important design element as the rest

of the building because it backs onto a disused industrial site and there are no formal public views of the rear façade. The incorporation of ill-conceived three-storey and single-storey extensions to the rear have also damaged the rear façade of the building.

It is also argued that the glazing system is not a “finally crafted building element”. The stainless-steel Morris Singer glazing system is rather “crudely face-fixed and is exhibiting signs of latent corrosion”. It is also stated that the extensive single pane glazing does not provide acceptable U-values in accordance with Part L of the Building Regulations. It is argued that these elements are not capable of authentic conservation in the way historic joinery is.

The submission then goes on to respond to the grounds of appeal by the third-party appellants. It is argued that the façade of the building will be greatly enhanced as a result of the proposed development. The proposal to restore the undercroft will profoundly enhance the character and use of the protected structure. The proposed rear extension it is argued, will significantly enhance the setting of the building. It is also argued that the proposed extension fully accords with Departmental Guidelines on Architectural Heritage. It is also argued that the proposed development will have clear benefits for the interior of the building.

In conclusion, it is argued that the proposals will profoundly enhance the architectural fabric, character and use of the protected structure and its setting.

Next the applicant called upon Mr. Chris Kennett to make a submission at the hearing.

15.4. Submission of Mr. Chris Kennett

His submission specifically responded to the issues raised in the third-party appeals regarding building, scale, height, massing and relationship with the surrounding urban area. He argued that the proposed new office building will lie behind No. 2 Grand Parade and will not be readily visible from vantage points within Dartmouth Square other than Dartmouth Square North. It is argued that the proposed development will not adversely impinge on the character and views from Dartmouth Square. The intervening trees and Victorian terraced buildings will screen all views from Dartmouth Square West, East and South. It is argued that the existing views from the rear gardens of Dartmouth Square West into the site are of no special

quality and the proposed development will positively replace the former low rise industrial buildings and surface car parking.

Next Mr. Bill Hastings of ARC Consultants made a submission to the Board on daylight and sunlight.

15.5. Submission of Mr. Bill Hastings, ARC Consultants.

He noted that daylight and sunlight impact analysis were carried out in February, 2017 and an addendum analysis was carried out prepared on the basis of new information in relation to ground levels in the rear gardens of Dartmouth Square. Furthermore, in response to the third party appeals, an additional daylight and sunlight analysis was undertaken in order to address concerns raised. The predicted impact on sunlight access was carried out in accordance with BRE Guidance. The analysis undertaken shows that the construction of the proposed development will result in some additional overshadowing to the rear of Dartmouth Square West during the late afternoons and evenings of the spring and autumn months and the late evenings of some of the houses during the summer months. However, the additional overshadow will range from imperceptible during the mid-afternoon of the spring and autumn months and increasing to moderate additional overshadowing as the afternoon progresses into the evening. During the summer months the rear gardens and rear facades of houses, not already overshadowed by the former Carroll's building, are likely to experience slight to moderate overshadowing by the proposed development for a time in the late evening. The construction of the proposed development is not predicted to interfere with the capacity of existing windows or gardens to achieve the level of sunlight recommended in the BRE Guidance.

In terms of predicted impact on daylight access, the analysis undertaken indicated no part of the proposed development measured in the vertical section, perpendicular to a main window wall on an existing building from the centre of the lowest window, will subtend to an angle of more than 25 degrees to the horizontal. As such the proposed development will not result in undue adverse impacts on daylight access to the neighbouring residents on Dartmouth Square West.

15.6. Submission by Mr. Kevin Sturgeon.

The submission from Mr. Sturgeon specifically related to drainage issues. The submission specifically deals with the issues raised in the third-party appeal. It is acknowledged that the proposed development will result in an increase in foul loading from additional staff utilising the new office building. However, there will be an overall significant net reduction in combined peak flow rates because the development of new stormwater drainage which will be attenuated to discharge lower peak stormwater flows than that currently associated with the current site. The existing run-off from the development is currently unattenuated and drains freely into the sewer systems without any restriction. The proposed development will limit the stormwater discharge from the new office block and surrounding hardstanding to 2l/s while retaining the existing Carroll's building discharge to the combined sewer but with the foul component from same separated out. This will result in a significant reduction of up to 75% in peak flow rate. It is noted that Irish Water consider that there is capacity in their existing network to cater for the proposed development.

It is suggested that the proposal could connect into the Grand Canal tunnel sewer which runs to the north of the site rather than the existing drainage system. However, Dublin City Council confirm that single development connections to this trunk sewer would not be permitted.

With regard to flood risk and the Swan River, CCTV surveys of existing drains on the existing site have been undertaken. This identified an existing 710 millimetre brick combined sewer culvert that runs directly diagonally across the site towards the lane to the rear of the houses on Dartmouth Square West. No other culvert was identified. To facilitate the development, the existing culvert will be diverted around the buildings and reconnect to the sewer within Dartmouth Road. The culvert is in poor condition and will be reconstructed thereby reducing the flood risk.

15.7. Submission by Thomas Jennings Traffic Consultant

The next brief of evidence was made by Thomas Jennings which dealt with traffic, transportation and road safety issues. It provides details of pedestrian access, bicycle access and vehicle access for both staff, visitors and service traffic to the development. Vehicle access for construction traffic was also indicated in the

submission. With regard to increased traffic on the surrounding road network, it is stated that the proposed development will see a notable reduction in the number of car parking spaces down from 96 to 35. It is argued therefore that the proposal will not result in a material increase because of the redevelopment proposals.

With regard to additional traffic movements on Dartmouth Square and Dartmouth Road, it is again reiterated that the proposal is likely to generate a lower volume of commuter traffic than previous occupiers of the site. It is argued that the proposed vehicle trips will have no material impact upon the operational efficiency or safety levels of Dartmouth Road and Dartmouth Square. However, if the Board consider it appropriate, it could condition that all service and HGV vehicles during the construction phase enter and exit via Grand Parade.

In relation to service vehicles, it is stated that office based land uses typically generate limited numbers of service based vehicle trips. In terms of overspill traffic onto Dartmouth Square, it is noted that the square is located in Zone 1 'Pay and Display' Area with a charge of €2.90 per hour. This would make it very unattractive for commuters and potential employees, based within the proposed development, to use this parking. It also states that the site benefits from excellent accessibility levels in terms of sustainable modes of travel.

With regard to construction traffic using Dartmouth Road and Dartmouth Square, a construction traffic management plan will be compiled by the contractor prior to the commencement of development.

15.8. Submission by Jim Lawlor on Metro Link and Luas Line Connections

Finally, a brief of evidence was submitted by Jim Lawlor specifically in relation to the Metrolink and Luas interface. It sets out details of the meetings that were held between the applicant, DBFL and the NTA and TII. It noted that from the outset it was apparent that tunnelling beneath the existing eight-storey former Carroll's building was technically challenging due to the close proximity of the tunnel bore to the foundations which pose a risk to the integrity of the protected structure. Following discussions with TII in relation to the risk, an alternative proposal was made to locate the tunnels and Metro Station to the east of the former Carroll's building between the building and the houses at Dartmouth Square. This has the potential to minimise the

risk of damage due to tunnelling directly under the protected structure. In order to facilitate the construction of the Metro works at a future date, the proposed foundation structure to the office scheme was revised to take account of the revised TII/NTA alignment. Details of this are contained in Mr. Lawlor's submission. It concludes that should this scheme showed in the TII preferred alignment be brought forward and proceed to construction, the Metro Station can be accommodated without undue impact on No. 2 Grand Parade development.

Finally, Mr. Lawlor's submissions sets out details how it is proposed to interface the proposed development with the Luas embankment and rail line to the west of the site.

This concluded the formal submissions on behalf of the applicant.

15.9. Planning Authority's Submission to An Bord Pleanála Oral Hearing

A submission was made by Emer Uí Fhátharta, Senior Executive Planner.

The submission sets out details of the proposal and land use zoning and planning policy as it relates to the site and the proposal. In relation to the impact on the protected structure, it states that the Planning Authority has carefully considered the impact of the refurbishment and renovation works on the protected structure and it is considered that the interventions are all positive and contribute significantly to the protected and enhancement of the protected structure. It states that the new office building provides for the provision of a modern fit-for-purpose service core which can serve the existing protected structure together with a proposed new office building. In the absence of the new office building, such facilities would have to be provided within the existing structure which would seriously compromise the quality of the open plan spaces. The proposal also constitutes a sustainable and strategic use of underutilised industrial land to the rear. This should be seen as a positive gain in planning terms.

With regard to mass and height of the proposed new structure it is noted that in response to concerns the applicant reduced the bulk and scale of the glazed atrium and the revised structure adequately addresses the concerns in this regard. If the Board are having further concerns in relation to the impact of the rear façade it is suggested by the Planning Authority that the glazed atrium could be set back on all

floors to a point in line with the security barriers indicated in the ground floor plan. This modification would help to further reduce the impact of the new office extension on the rear façade.

With regard to the impact on the Architectural Conservation Area it is stated that the site of the proposed development is located outside the Dartmouth Square ACA and there are no protected views identified to and from the Dartmouth Square ACA. It is considered that there will be no direct intervention or physical intrusion into the ACA as a result of the proposed development. The visual impact assessment has indicated, given the significant setbacks of the proposed development, that the visual impact will be relatively limited. Having regard to the strategic nature of the site close to public transport, it is anticipated that any future development is likely to be at scale which will have some visual impact on the square. It is considered that the height and scale of the proposed development would have an acceptable impact on adjoining residential amenities due to the progressive step-down in building height towards the common boundary with Dartmouth Square and the generous separation distances involved.

With regarding to drainage and flood risk, it is noted that Dublin City Council Drainage Division raised no objection to this proposal subject to compliance with conditions and the details set out in the Drainage and Flood Risk Report. In conclusion therefore the Planning Authority supports the revitalisation of the protected structure and the redevelopment of the substantial site to the rear and that the proposal is in accordance with the proper planning and sustainable development of the area.

Ms. Uí Fhátharta also read into the record the Roads, Traffic and Planning Division Response to the third-party appeal. It addressed issues in relation to the Luas/Metrolink. It states that the applicant's response to the third-party appeal is of note. It is stated that Appendix 3 of the clarification of further information provides further clarity as to how the development has been designed to facilitate the future delivery of Metrolink and Luas interchange.

With regard to traffic it is noted that the transport statement submitted with the application indicates that the first principles methodology is the most appropriate method to estimate vehicle trip generation given the significant influence that the

restrictive car parking provision being provided on site for the development will have on traffic generation levels and that both the TRICS database and the donor site methods are not viable options due to the absence of similar office schemes with such restrictive car parking levels. In relation to car parking it is stated that the quantum car parking to be provided and the number of cycle spaces to be provided at acceptable. A framework mobility management plan was also submitted.

It is considered that the accessing and servicing of the proposed development will not impact on the operational capacity of the surrounding road network. A sweep path analysis has been submitted which indicates that both accesses are fully acceptable by inbound and outbound construction vehicles. With regard to the interal service road new road it is stated that accesses from Grand Parade and Dartmouth Road will be controlled by a barrier system and will not operate as an internal access road and thus will be accessible through route. Thus planning permission would not be required.

15.10. Submission from Transport Infrastructure Ireland

Ms. Aoife Carroll, barrister-at-law made a formal submission to the hearing on behalf of TII. The submission sets out details of the role of TII and also set out requirements and protocols in relation to Luas and planning application proposals. It is noted that great care is needed for a development management process in close proximity to Luas lines having regard to the fixed tracks and overhead wires. The approach adopted by TII in making submissions or comments to planning applications in proximity to light rail aims to uphold TII's "Code of Engineering Practice for Works on, near or adjacent to the Luas Light Rail System" (2016). In the case of the current application, it is noted that the existing Luas Green Line alignment is elevated on the original Harcourt Street alignment embankment. Working with Dublin City Council and the developer, TII consider that the further information submitted for Dublin City Council including in particular the clarification of additional information received by Dublin City Council on 13th December will address the issues raised by TII in relation to the fixed line Luas.

Should the Board consider it appropriate to grant planning permission Conditions Nos. 1 and 3 of the Planning Authority's decision should be attached. It is stated that during the process of the planning application TII has worked with Dublin City

Council and the developer to address issues in relation to the fixed line Luas due to the historic nature of the embankment structure which requires specialist resolution and management. The Board therefore in consideration of the planning application should ensure appropriate safeguarding conditions are applied to the Luas line.

15.11. Submission on behalf of the NTA

A submission was also made by David Clements on behalf of the National Transport Authority. It notes that the NTA is responsible for strategic planning of transport in the Greater Dublin Area and that the NTA, in conjunction with Transport Infrastructure Ireland, is progressing with the development of the Metrolink Project. It notes that a large proportion of the route would be underground including where it would pass under the city centre and Dublin Airport. The underground section will terminate in the south city area where Metro will connect to and run southwards on the existing Luas Green Line. The NTA is aware of the development proposal and its location in proximity to the potential connection between the underground and above ground sections of the proposed Metrolink Project. The NTA and TII have had extensive discussions with the applicant in relation to the interface between the development proposals and the planned Metrolink scheme. The NTA support the granting of planning consent in respect of the proposed development subject to the inclusion of a condition which requires the developer to liaise with TII and the National Transport Authority which would include further detailed drawings in accordance with the plans and drawings submitted to the Planning Authority on 12th December, 2017 for the accommodation of a Metro or light railway at or near the site within the approved development and to ensure the structural stability and safety of adjacent rail infrastructure.

16.0 Third Party Submissions

16.1. Submission by Helena Kelly

The short submission by Helena Kelly resident of No. 10 Dartmouth Square West objected to the proposed development as the appellant has three young children and the small garden to the rear of the dwelling which is vitally important to the amenity of the appellants. It is described in the submission as “an extra room every day of the

week". The applicant is appalled at the thought of a six-storey glazed office block with roof terrace overlooking her home and garden just 30 metres from her kitchen door. The Board's decision is one that the appellants will have to live with for the rest of their lives and both the site and the appellants would benefit from a three-storey development to the rear. The proposal constitutes a terrible invasion of privacy by way of extreme overlooking.

16.2. **Submission by Elisabeth Vandenberghe**

Mr. James Kelly of Kelly and Cogan Architects made the following submission on behalf of the appellant. Mr. Kelly is an architect and an accredited specialist conservation architect and chairman and director of the Dublin City Trust. The submission outlines the receiving environment and sets out the unique architectural attributes about Dartmouth Square and the Carroll's building. The latter it is noted is one of the finer late modern structures in the city. The Carroll's building is of particular note as it is designed "in the round". The submission goes on to set out details of Dublin City Council policy and specific reference is made to Chapter 11 of the Dublin City Development Plan. In terms of the impact appraisal, it is considered that the development impacts to a significant degree on Dartmouth Square and the surrounding residential dwellings. The new office building will be clearly visible above the roofline of the western side of the square and from the rear windows of the buildings on the western side of Dartmouth Square.

It is stated that the proposed development will eradicate the south facing façade as the atrium connection and associated works will irreversibly alter the presentation of the façade and the character of the building. The proposed works will adversely affect the specialist interest of the structure thereby negating both the significance of the structure and resulting in an excessive and damaging intervention on its historic fabric.

It is also highlighted that the conservation officer is not in agreement with the decision to grant planning permission. The submission goes on to quote at length from the Conservation Officers report and concludes that it is difficult, if not impossible, to set aside the concerns expressed by the conservation officer. It is Mr. Kelly's professional opinion as a conservation architect that the proposed

development should either be refused permission or should be so amended by condition to resolve the conflicts with the Dublin City Development Plan.

16.3. Submission from Kieran Black of No. 33 Dartmouth Road (directly opposite the southern entrance to the site).

Mr. Black did not present a written submission to the Board but presented his evidence orally. The main concerns raised in this submission related to the service vehicles which will serve the proposal and it is stated that the traffic impact statement submitted with the application totally ignored the issue of service vehicles.

Furthermore, the traffic report submitted totally ignored off-street traffic and vehicles travelling to and from the site late at night and early in the morning along Dartmouth Road. The fact that the applicant has indicated at the hearing that a condition would be acceptable requiring all traffic to enter and exit the site via Grand Parade is welcome. However, it is suggested that the Board should go further and require that all vehicles, not just HGV vehicles would use the Grand Parade entrance and exit. It is stated that the Dartmouth access should only be used for emergency access.

Concerns are expressed in relation to the difficulty of manoeuvring in and out of the building. Concerns are also expressed in relation to the dust and disturbance that would arise from construction activities on site. The Board are therefore asked to incorporate a condition in the case that planning permission is granted, that roads be swept and that windows of buildings in the vicinity and cars should be washed at regular intervals. It is noted that such a condition was attached to the Board's grant of permission for the National Children's Hospital.

Day 2 of Oral Hearing (Third Party Submissions Continued)

16.4. Submission by Alex Kearney

The submission from Mr. Kearney was made on behalf of DoCoMoMo which is an international movement committed to the documentation and conservation of buildings, sites and neighbourhoods of the modern movement. Section 1 of Mr. Kearney's submission specifically deals with the architectural heritage assessment and it is argued that the architectural heritage assessment submitted with the application does not provide a complete record analysis of the proposed changes to the protected structure. Specifically, the AHA does not highlight the destruction of a

section of yellow brick wall from the curved loading bay facing into the undercroft. It does not assess the impact of the addition of attic storey windows on the canal side elevation of the top floor nor does it refer to the removal of the original parapet railing. The submission also goes on to argue that many of the proposed changes are contrary to guidance set out in the Architectural Protection Heritage Guidelines. With regard to the Morris Singer windows, it is argued that there are grounds to believe that this stainless-steel office glazing system is among the very first to be used in Britain or Ireland. Concerns were also expressed in relation to the proposed method of glazing on the former Carroll's building. It is argued that the glazing is a dominant element of this protected structure. While it has many advantages in terms of its high performance, double glazing can seriously compromise the special interests of the original fenestration.

The submission also goes to highlight perceived errors and inconsistencies in the AHA report. It also suggests that the AHA report incorporates some subjective analysis and recommendations. It suggests that the assessment submitted with the application argues for the destruction of defining original features on the basis of uncollated archive material describing unrealised alternatives. It also misidentifies features which it is considered to be original to the structure but which are not. The AHA also omits to mention the significance of the architectural clients namely PJ Carroll's and Son who are major patrons of the modern movement of architecture during the 1960s and 1970s.

The submission goes on to highlight inconsistencies, omissions and oversights in the planner's and conservation officer's report. It is argued that the planner's report fails to adequately assess the impact of the proposal on the architectural integrity of the Carroll's building. It is noted that there is no assessment of the named alterations to the fabric of the protected structure. The planner's report includes no assessment of the methodology, extent, degree, nature and impact of the proposed changes on the fabric of the protected structure. Mr. Kearney handed in a planner's report in respect of Application 4396/17 which related to a protected structure at No. 9 Ranelagh Road. It is argued that notwithstanding the fact that this application involved alterations to a more modest protected structure, the planner's report in respect of 4396/17 provided a much more detailed and comprehensive analysis than that under the current application. The submission goes on to note a number of omissions from

the Conservation Officer's report which likewise failed to detail or comment on many of the proposed alterations to the fabric of the protected structure.

The submission then goes on to assess the impact of the proposed new office block on the former Carroll's building and notes that the Conservation Officer highlights the fact that the protected structure was originally conceived to be seen in the round. Finally, the submission sets out recommendations which urges the rejection of the scheme as the Carroll's building is distinguished by its superior design, craft and materials and this has been endorsed by its inclusion on the Record of Protected Structures 1999. The building in question is deserving of the utmost care and respect and the application has not demonstrated these qualities.

Finally, Mr. Kearney submitted a letter signed by various architects, and members of the DoCoMoMo Irish Branch objecting to the proposed alterations to the Carroll's building for the reasons outlined above.

16.5. Submission by Professor Alex Rowan

Mr. Rowan set out his professional credentials and stated that he is a committee member of the Upper Leeson Street Areas Association who are opposing the development before the Board. It states that the association has three principle concerns. Firstly, it is discouraged by the decision of the appellants not to consider a greater proportion of houses in the development of the ground to the south of the former Carroll's building.

It is argued that the addition to the former Carroll's building will have a disruptive and highly undesirable effect on the Architectural Conservation Area of Dartmouth Square. It is illogical for representatives of the Planning Authority to argue that since there are equally tall buildings in the area that the impact of the addition to the former Carroll's building is not a matter of concern. The large bulky addition will dominate and certainly detract from the integrity of the square.

Thirdly, the status of the former Carroll's building as an icon of modern architecture in Ireland is beyond dispute. Patrick Robinson was a very important Irish architect and the Carroll's building was to be his last design. The building is absolutely expressive of its age and time and Mr. Rowan would give it the same status as other

buildings such as the Economist Building in St. James in London or the Pirelli Tower in Milan.

The submission goes on to acknowledge that some elements require to be replaced within the building. Any replacements however should be like for like. It is not accepted that the south elevation is in any way inferior to the other sides. While the applicants have showed a good deal of enthusiasm to restore many of the original features of the building this cannot be done by sacrificing more than half the south elevation by a massive extension directly against it. A solution could be found to incorporate lifts and bathrooms within the western elevation of the building without requiring an additional large block against the original south façade. It is also suggested that the new office block would result in significant overshadowing of the plaza area and undercroft. This would create an ultimately dark and overshadowed space contrary to what the appellants suggest in the photomontages submitted. It is questioned whether such a gloomy forecourt could really lead to the enhancement of the Carroll's building.

16.6. Submission from Caitriona Shaffrey

Caitriona Shaffrey is an architect and also resident of Dartmouth Square. Her chief concerns relate to the dominant scale of the proposal which is deemed to be too big for the subject site and will give rise to much overshadowing. It is suggested that if one or two storeys were omitted from the proposed office development it would be of huge benefit to the square in terms of overshadowing. Ms. Shaffrey also submitted a shadow cast analysis to the Board which purports to show the extent of overshadowing during the winter months. It is also suggested that these two floors could be relocated to the lobby area and would only result in a c.1,000 square metre reduction of office space associated with the development. It is also suggested that the café should be standalone and self-reliant. However, there is not sufficient footfall in the area to sustain a café use at ground floor level.

Concern is also expressed in relation to the amount of office space to be provided within the city and specifically this part of the city was estimated at c.60,000 square metres of office space will come on stream. The Board should also consider the incorporation of internal glazing on the former Carroll's building in order to ensure that the integrity of the building is maintained. Finally, it is argued that there will be a

huge strain on the local services including parking, traffic, water, drainage, power and data etc. with an additional c.1,000 people working on the site.

16.7. Submission by Leo Crehan

It is stated that Mr. Crehan is an engineer and the submission will specifically deal with drainage issues. It is argued that the drainage drawings submitted with the application uses details from Dublin City Council and that it is contended that this information is not accurate. It is argued that the drainage information is not accurately drawn on the drawings submitted and that the drawings are clearly inadequate. The applicant is requested to revise drawings to show exactly what has been constructed on the ground. It is suggested that manholes should be provided at important drainage intersection points. The manhole in this instance is indicated near the eastern boundary within the site. It is suggested that the important intersection points run along the laneway to the rear of Dartmouth Square West and this is where the manhole should be located. It is suggested that the residents will allow the applicant to build a manhole over the sewer line which runs along the lane of Dartmouth Road subject to agreement with each of the parties. It was suggested at the oral hearing that it is not altogether clear how the sewer will be accommodated together with the Metro.

It is also argued that the area has been subject to flooding and House Nos. 1 – 17 have been flooded in the past and this is due to surcharging within the combined sewer network. It is acknowledged that the sustainable urban drainage system (SUDs) will mitigate against this. However, it is deemed to be not enough as the sewer is already overloaded. It is also argued that Dublin City Council should facilitate a connection from the proposed development to the Grand Canal drainage trunk sewer which is located adjacent to the canal and is capable of accommodating the effluent from the development in question. What is proposed in this instance is termed 'a second rate solution'.

16.8. Submission from Grace Maguire

Grace Maguire is also a resident of Dartmouth Road and her submission talked about her own personal background and her reasons for moving to Dartmouth Square. She argues that there is a great community spirit in Dartmouth Square and the wider Ranelagh area. She argues that the community are passionate about

fighting this development because of the adverse impact which will result. The submission also expressed concerns in relation to the basement and sub-basement levels which it is argued could impact on the foundation of the houses on the western side of Dartmouth Square. She also submitted a short report on drainage issues which was not read into the record (see report on file).

16.9. Submissions by Jerry Barnes, Planning Consultant on behalf of the Residents of Dartmouth Square West

Mr. Barnes is a principal of McCabe Durney Barnes. His submission set out details of the proposed development and gives an overview of the original submitted grounds of appeal which were contained in his written appeal. The main body of the submission goes on to deal with concerns regarding Metro and Luas provision where it was argued that the proposed development is premature pending agreement on the detailed alignment of the Metro. Concerns were also expressed with regard to public engagement and consultation and in this regard reference is made to the request of additional information under the provisions of Articles 33 and 34 and the failure to require public notices of the significant further information submitted.

It is noted that information for the Metrolink only came into the public domain on the 27th March, 2018 and this was after all appeals and responses have been submitted to the Board under the current appeal. As a result, third parties were not in a position to make any informed submissions in relation to the issue of the Metrolink tie-in and the subject development. The submission goes on to outline policy with specific reference to:

- Transport Strategy for the Greater Dublin Area
- The National Planning Framework and
- The Dublin City Development Plan.

The submission also makes reference to the Metrolink studies which were commissioned by the NTA/TII. It notes that the Alignment Option Study sets out a number of options which were the subject of multi-criteria analysis. The objective of the study was to identify the preferred location and configuration for a tie-in between Metro and the existing Luas Green Line. The recommended option was 4(B) and this option is illustrated in the submission submitted by Mr. Barnes. It indicates that

Bored tunnel under the former Carroll's building and a cut and cover station box which would allow for the effective integration with Luas was to be provided on the subject site. However, after this option was assessed, the current application was submitted and this resulted in an alteration to the location of the underground station where it was removed to the east side of the subject site between the former Carroll's building and the rear of the dwellings at Dartmouth Square West. The more recent option is referred to as Option 4(D) and it is suggested that the more recent preferred option was a result of discussions between the developer and the NTA/TII. It is suggested that this is a wholly unsuitable basis on which to move forward with the Metrolink project.

It is also suggested that Dublin City Council's Condition No. 3 is ultra vires as it is not appropriate to agree details with a third party which is not the Planning Authority. This is wholly contrary to the Development Management Guidelines which highlights that fundamental matters should not be subject of agreement as they could materially affect third parties.

A reference is made to An Bord Pleanála's decision under 300446 where the Board refused planning permission for an office development on Sandworth Street on the grounds that the development was considered to be premature pending the agreement of the requirements of Dart Underground and such a decision it is argued would be equally applicable in the case of the current application before the Board. It is argued that very similar considerations apply to the subject site. It is therefore argued that the proposed development is premature pending (a) a decision on the selection of the preferred alignment and (b) is premature pending the detailed design of the station whereby there are a whole series of questions that need to be considered before determining if a station can be constructed under the proposed office building. A critical part of the overall Metrolink project is to determine where the underground element emerges and connects with the overground element. It is suggested that if the Board are to grant planning permission for the subject development without confirming, in an unambiguous manner, whether Option 4(D) can be delivered, it would prejudice the whole Metrolink project. It is therefore argued that the proposal is contrary to Policy MT4 of the Development Plan.

That concluded the submissions of the third parties.

17.0 Question and Cross Examinations

- 17.1. After a brief introduction from the planning inspector in respect of the question and cross examination the inspector then invited the third parties to put questions to both the Planning Authority and the applicant in respect of the proposed development. It is not proposed to outline in detail the nature of the questions put to the Planning Authority and the applicant as these are available on the recordings of the Oral Hearing.
- 17.2. A number of questions were put to **Mr. Bill Hastings in relation to overshadowing**. Mr. Hastings suggested that the level of overshadowing depicted in Ms. Caitriona Shaffrey's submission on behalf of the third parties was not feasibly possible as during the mid-winter solstice as the sun would set to the south-west of the site and not to the west as indicated in the depiction of overshadowing diagram submitted by miss Shaffrey. Much discussion also arose around the extent of which the internal courtyard to the rear of the former Carroll's building would be affected by overshadowing.
- 17.3. The question and cross examination then moved on to **traffic considerations**. Where **Mr. Hugh Creegan and Mr. Paolo Carboni** of the NTA and TII respectively answered a number of questions put by Mr. Jerry Barnes on behalf of the third parties. Mr. Barnes put forward a series of questions in respect of the lack of detail regarding the underground options for Metrolink where it was suggested that the proposed development could not be granted in the absence of such details. Mr. Barnes also asked a number of questions in relation to the prematurity of the proposal. But Mr. Creegan and Mr. Carboni argued that they were satisfied that the proposed development could go ahead without compromising any future alignments for Metrolink. Mr. Barnes suggested that such a statement is untenable in the absence of more detailed designs for the Metrolink project and that the proposed development should be deemed premature and could undermine the delivery of the project. Mr. Owen Hickey, barrister on behalf of the Dartmouth Square Residents Association suggested that the Metrolink option proposed to the east of the Carroll's building (Option 4(D)) would result in the CPO of lands at the residents of Dartmouth Square and this was wholly inappropriate and unacceptable to his clients.

- 17.4. Ms. Aoife Carroll (Barrister on behalf of TII/NTA) suggested that all such options would be debated and analysed as part of an application for Metrolink to the Board under the Transport Infrastructure Act 2001 (as amended). She argued that it was premature to determine such matters at this oral hearing as they will be the subject of a separate application to the Board.
- 17.5. Mr. Barnes then put a number of questions to Mr. Lawlor in respect of his experience of building Metro-lines. Mr. Lawlor stated he had no such experience however, as a structural engineer he is satisfied that in geotechnical terms the proposed underground Metro station could be provided in conjunction with the proposed development.
- 17.6. With regard to **building conservation issues** including potential impacts on the Carroll's building much debate took place between **Alex Kearney and the applicants** with regard to the impact of the proposed development on the integrity and fabric of the former Carroll's building. Debate also took place as to whether or not the Carrolls building should be assessed "in the round". Mr. James Slattery suggested that the fact that the rear of the Carrolls building was not accessible to the public and was set amongst industrial buildings to the rear suggest that the rear elevation is less important in architectural terms. Much discussion took place in relation to the proposed methods of the replacement of glazing and the replacement of the Morris Singer windows within the development. The applicants also maintained that the proposal represented a significant planning gain in restoring the internal elements of the building to its original state and this was rejected by the appellants arguing that the proposed extension to the rear was too great a price to pay. Mr. Kearney also suggested that many of the interventions proposed, particularly at the undercroft area and the glazing, represented a significant departure from the original architectural intent. Much discussion also took place with regard to the views and prospects available - particularly views from the Luas line.
- 17.7. During the question and cross examination, the applicant also made some rebuttals to contentions made in the various third party appeals and these rebuttals related to:
- The visual impact.
 - Drainage considerations.
 - The impact on the projected structure.

- 17.8. A submission by Moal Iosa Molloy on behalf of the applicant (Conservation Architect) argued that in order to restore the former Carroll's building to its original internal layout, and in order to comply with current Building Regulations, the applicant has no option but to relocate the lifts and bathrooms to an attached structure to the rear of the building. Any incorporation of these service cores within the existing structure would result in a significant intervention and alteration which would affect the integrity of the former Carroll's building. This point was rejected by Professor Alister Rowan.
- 17.9. In relation to **flooding**, the applicant accepts that pluvial flooding events did occur in the area. However, this will be adequately addressed by the proposed drainage arrangements.
- 17.10. Mr. Jennings on behalf of the applicant also addressed a number of **traffic concerns** raised by third parties.
- 17.11. Finally, Mr. Galligan on behalf of the applicant addressed concerns raised in respect of the request for additional information under **Articles 33 and 34** of the Planning Acts. It is suggested that the Board does not review issues before the Planning Authority and the Planning Authority sought information in an open ended way which required the applicant to liaise with TII and NTA; which it did accordingly. Furthermore, it is argued that the Planning Authority has complete and utter discretion in dealing with the issue of Additional Information and the requirement to circulate information. The Planning Authority in this instance did not consider it necessary to circulate this information and reference is made to Case Law IEHC332 (2004).

18.0 Closing Submissions

18.1. Closing Submissions on behalf of Third Party

Jerry Barnes made a closing submission on behalf of the residents of Dartmouth Square West. He argued that this is a very important decision for the Board. It could have fundamental ramifications for the city and could have more profound implications for the future of public transport within the city. The former Carroll's building is an iconic building which is afforded very important views from vantage points surrounding the site. It is considered to be a building of equal iconic status to

that associated with Dublin Airport and Busaras. The extension impacts on the setting of the building. Furthermore, the impact on the Architectural Conservation Area of Dartmouth Square should not be overlooked as this impact is deemed to be major. This point is recognised by the Conservation Officer.

A major impact arising from the proposal relates to the implications for the future Metrolink route. This issue only came to light after third party submissions. The development before the Board is considered to be premature and will prejudice the project. Negotiations with regard to the proposed development at Metro North was carried out behind closed doors and the major design implications of Metro North needs to be detailed before any decision can be made on the current application. It is argued that these issues cannot be dealt with after the building has been constructed on site. All issues in relation to Metro North need to be ironed out and agreed prior to any proposed application on the subject site. The configuration of the Metro North's underground station as proposed under the current application will result in lands being CPO'd to the rear of the houses at Dartmouth Square West. It is deemed to be unacceptable by the appellants.

The proposed development would give rise to excessive levels of overlooking and overshadowing. The procedural issues with regard to Articles 33 and 44 together with the inaccuracies in the drawings submitted and the traffic implications arising from the proposed development are also of concern. For all the above reasons it is recommended to refuse planning permission.

Mr. Alex Kearney's concerns in respect of the proposed development primarily relates to the fate of the former Carroll's building. The views of the conservation officer employed by Dublin City Council have been relegated in the whole debate and this is deemed to be unacceptable. The fact that the conservation officer has not been heard at this hearing is also of concern. All pre-planning discussions should have involved the Conservation Officer of Dublin City Council and the officer should have had a material and significant input into the development. Finally, it is argued that the architects in this instance are eminent architects with much experience and they would have had the wherewithal to come up with a new scheme that respects the setting and context of the former Carroll's building.

Prof. Allister Rowan's closing comments acknowledges that there has to be development on site but the proposed "collision of buildings" between new and existing is unacceptable. There is a requirement for An Bord Pleanála to respect the identity of the existing building on site. It is suggested that it is not necessary for a new extension to be built in order to ensure accessibility requirements comply with Building Regulations. Mr. Rowan made reference to a number of university campus buildings which have been appropriately modified and adopted in order to comply with Building Regulations. It is suggested that the proposed plaza will not have any light due to the configuration of buildings around it. Nobody wants the former Carroll's building to die but it is suggested that there are appropriate interventions which would ensure that the building can be maintained in its original grandeur and setting.

18.2. **Closing Submission from Dublin City Council**

The inspector then requested that **Mary Conway** would make a closing submission on behalf of Dublin City Council. Ms. Conway stated that the Council still supports the proposed development. Many of the works to be incorporated in the above scheme are deemed to very positive. The Corporation would support the idea of replacing the existing stainless-steel Morris Singer system and glazing with the most appropriate and sensitively designed system as possible. It is argued that the proposed new office development is not too monolithic and it is not considered that the proposed development is premature regarding the future Metro Station. It is suggested that the finer details can be agreed post-construction. Finally, Ms. Conway suggested that the proposed development is fully in accordance with the provisions of the development plan.

18.3. **Closing on behalf of the TII and NTA**

The inspector then requested that **Ms. Aoife Carroll**, barrister on behalf of the NTA and TII to make a closing submission. Ms. Carroll stated that the current application before the Board has nothing to do with the delivery of the Metro North project. This will be the subject of a separate Railway Order under the Transport Infrastructure Act 2001 (as amended). It is argued that the revised plans would not prejudice the Metro project and this is being supported by the experts presented at the oral hearing on

behalf of the TII and NTA. It is also suggested that the proposal would have an acceptable impact on the Luas operations provided the applicants comply with various protocols, guidelines and requirements of Transport Infrastructure Ireland and these can be adequately dealt with by way of condition. Any such conditions are a matter for the Board. However, the NTA and TII requirements should be included in the wording of any such conditions.

18.4. **Closing Submission on behalf of the Applicant**

Finally, the inspector requested that **Mr. Galligan**, barrister on behalf of the applicants make a closing submission to the Board.

With regard to the Metrolink, it is argued that the applicants have engaged positively and constructively with both TII and NTA so as to ensure that any development on site would not compromise the future Metro station and alignment. While reference was made to the Board's decision on Reg. Ref. 300446, where the Board refused planning permission for a similar development on grounds of prematurity, the applicant in this instance has fully engaged with the TII and the NTA to the extent that both transport infrastructure bodies support the proposed development unlike the case of the application referred to. The applicant was required by the Planning Authority to meet with TII and the NTA and all the issues raised by the third parties have been addressed, assessed and peer reviewed and as such the Board are presented with a proposal where it can be fully assured that agreement can be reached between all parties in relation to the finer details. All parties agree that the principle of the development can go ahead in conjunction with the Metro North Station. The alignment put forward for Metro North was required by Transport Infrastructure Ireland/the NTA and not the developer as inferred by the third parties. It is suggested that the Board can adequately deal with this issue by way of condition as per Section 34(5) of the Act.

With regard to conservation issues, it is stated that the applicant has very carefully considered the proposed new office development in the context of the existing former Carroll's building on site. Ms. Molloy together with Mr. James Slattery, both conservation architects, have endorsed the idea of a separate service core outside the building and this, it is argued, is necessary in order to bring the former Carroll's building back to its original splendour. The proposal will allow people to view the rear

façade of the former Carroll's building and the proposed development therefore has been sensitively designed to ensure that it does not impact or prejudice the context of setting of the protected structure.

With regard to the impact on the Dartmouth Square ACA, it is argued that the setback of the proposed office building addresses all concerns with regard to overlooking and overshadowing.

It is argued that the Board will have to look at the bigger strategic issues in determining the proposed development including the need to provide an appropriate quantum of development within city centre site close to public transport provision. Finally, it is argued that the proposal fully accords with the Z6 zoning which seeks to provide and facilitate employment land uses on the site. The proposed office development will facilitate such employment uses. The Board is therefore requested to grant planning permission for the proposed development.

18.5. Closing of the Oral Hearing

This concluded the closing submissions and the inspector formally closed the hearing at 17.40 p.m. on Friday 13th July, 2018.