



An  
Bord  
Pleanála

## Inspector's Report ABP-300914-18

### Development

Protected Structure - Demolition of existing structures and the provision of a four to seven storey over double basement - level commercial development comprising office accommodation including a surface car park (7 no spaces) and a basement car park (33 no. spaces); 157 no. bicycle parking spaces with showers, storage lockers and changing facilities; and a separate service and refuse collection vehicle access way. The development will also include external courtyards at ground floor (1 no.) and lower ground floor (2 no.); and all necessary ancillary works above and below ground level.

### Location

Seagrave House, (19-20 Earlsfort Terrace) and Davitt House (65A Adelaide Road), Dublin 2

### Planning Authority

Dublin City Council South

<b>Planning Authority Reg. Ref.</b>	3040/17
<b>Applicant(s)</b>	Irish Life Assurance PLC.
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant permission subject to conditions
<b>Type of Appeal</b>	(1) First Party v Condition (2) Third Party v Decision
<b>Appellant(s)</b>	(1) Irish Life Assurance PLC (2) Charlotte Sheridan & Kevin Woods.
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	4 <sup>th</sup> July 2018, 5 <sup>th</sup> October 2018.
<b>Inspector</b>	Bríd Maxwell

## 1.0 Site Location and Description

- 1.1. The appeal site which has a stated area of 0.286 hectares occupies approximately half of a city block bordered by Hatch Street Lower to the north, Adelaide Road to the south, Earlsfort Terrace to the west and Hatch Place (occasionally referred to as Hatch Lane) to the east. The site lies within an area approximately 500m south of St Stephen' Green within the central business district and within the grand canal ring. The National Concert Hall is located to the northwest. The area is varied in character with a mix of architectural styles and ages varying in terms of design, scale, form, mass and bulk from a mix of Georgian or Victorian Terraces on Adelaide Street and Hatch Street Lower and office blocks from 1960s / 70s and more recent additions including the Conrad Hotel (opposite the National Concert Hall) and Arthur Cox diagonally opposite the National Concert Hall fronting Hatch Street Lower. Traditional buildings tend to be 3-5 storeys in heights while the 1960s / 70s office blocks are generally 5-6 storeys high and more recent developments rise to 7-8 storeys. The area is predominantly in office use with some limited residential development.
- 1.2. The appeal site is occupied by two 5 storey over basement office buildings *Seagrave House* and *Davitt House* both dating from the mid-1970s. A residential block of apartments, *Earls Court* adjoins to the south-eastern corner and sits within this complex of office buildings and is of similar design and vintage. There are four historic buildings to the north, including two protected structures, one of which adjoins the site. A recently constructed 7 storey office building "*Arthur Cox*" is located to the north of the site fronting Hatch Street Lower.
- 1.3. *Seagrave House* is five storeys over basement with the front block facing Earlsfort Terrace and with a plant room of the 5<sup>th</sup> floor / roof. There is a single storey over basement rear block and a rear car park sloping up from basement level to Hatch Place from which it is accessed. External walls are clad with red brick outer leaf. *Davitt House* is a five storey over basement structure with a front block facing onto Earlsfort Terrace and rear block facing Adelaide Road. External walls are clad with red brick outer leaf.

- 1.4. Hatch Place is a one-way road with traffic travelling from Adelaide Road to the south towards Hatch Street Lower to the north. The carriageway of the laneway is approximately 3.3m wide with 2m wide car parking bay in the vicinity of the appeal site access.

## 2.0 Proposed Development

- 2.1. The proposal as initially submitted involves the demolition of all existing structures Seagrave House and Davitt House and to redevelop the site as a new 4 to 7 storey (over double basement) office scheme. The proposed building is progressively setback at its sixth and seventh storeys, plus roof plant) and results in a gross floor area of 12,958 sq.m plus (2024 sq.m within basement).
- 2.2. The development includes: the provision of vehicular access from Hatch Lane to a surface car park (7 no spaces and to a basement car park via 2 no car lifts (33 no spaces) 157 no bicycle spaces with showers, storage lockers and changing facilities and a separate service and refuse collection vehicle access way from Hatch Lane.
- 2.3. The development will also include external courtyards at ground floor (1 no) and lower ground floor (2 no) outdoor terrace areas at sixth and seventh storeys on the south, west and north elevations, respectively; a screened / recessed plant enclosure and lift overrun at roof level (above seventh storey) business identification signage; ancillary plant; ESB substation, reception facilities, circulation areas boundary treatments, hard and soft landscaping and all necessary ancillary works above and below ground level.
- 2.4. In response to a request for additional information from Dublin City Council some amendments were made to the proposal resulting in a reduced building with Gross Floor Area 12,621 sq.m over 2,024 basement. The amendments are to the southern and eastern elevations adjoining the Earls Court apartment building and provide for a 1.5m building line set back from lower ground to fifth floor and an increased progressive set back at sixth floor of up to 3m. Interface between the site and adjoining protected structure was detailed incorporating a stone element positioned

between the sites and providing overcladding protection. The level of car parking provision proposed was amended to a total of 31 spaces.

### 3.0 Planning Authority Decision

#### 3.1. Decision

3.1.1 Following a request for additional information which sought amendments to height scale and bulk and reduction in level of car parking provision and further detailed matters. Dublin City Council issued notification of its decision to grant permission and 15 conditions were attached including the following of particular note:

- Condition 2. Developer shall pay the sum of €554,643.99 in accordance with the Section 48 development contribution scheme.
- Condition 3 Developer shall pay sum of €300,837.60 in respect of the Luas Cross City Section 49 development contribution scheme.
- Condition 11 (under appeal):*“The development shall comply with the following requirements of the Roads and Traffic Planning Division:*

*(a) Prior to the commencement of development, the applicant shall submit a revised Basement Plan which reduces the number of demarcated parking spaces proposed to serve the office development to 16 no parking spaces. Once the development is operational, for a minimum of 6 months, the applicant can monitor the use of the car park and submit an evidence based case for increase in car parking at basement level to a maximum of 25 no spaces.”*

#### 3.2. Planning Authority Reports

##### 3.2.1. Planning Reports

Initial Planning report notes concerns with regard to the scale, height and bulk and potential for negative impact on established residential amenity and the character of the immediate area. Further information was sought to address scale and additional photomontages were requested. Details were also sought with regard to paving

details, boundary treatment, access and traffic. A reduction in car parking provision and relocation of car lifts were entreated to address concerns regarding potential queuing. Following submission of additional information permission was recommended subject to conditions.

### **3.2.2. Other Technical Reports**

3.2.2.1 Waste Management Division - No objection subject to standard conditions.

3.2.2.2 Roads Streets and Traffic Department initial report expresses concern regarding proposed use of car lift and potential for queuing on Hatch Place. Following submission of additional information, the report restates these concerns. Proposal to provide maximum car parking spaces is not supported. Alternative options for revisions to the road layout in the vicinity of the site including removal of pay and display parking and reduction in footpath width are not appropriate. A reduction in the level of parking to 16 spaces is recommended. Once the development is operational for a minimum of 6 months, the applicant can monitor the use of the car park and submit an evidence based case for increase in car parking at basement level to a maximum of 24 no spaces.

3.2.2.3 Drainage division report indicates no objection subject to compliance with Greater Dublin Regional Code of Practice for Drainage Works Version 6.0.

### **3.3. Prescribed Bodies**

3.3.1 Transport Infrastructure Ireland notes location within are set out in the Luas Cross City Section 49 Levy scheme.

3.3.2 An Taisce submission expresses concern regarding the widespread premature demolition of structurally sound and reusable buildings dating from the 1960s and 1980s. Existing buildings are sensitive and contextual to the historic streetscape and thermal performance can be upgraded and alterations made to meet universal access requirements. Reuse should always be the objective as projected energy consumption savings for new build will never overcome the significant environmental footprint of demolition and replacement.

### 3.4. Third Party Observations

3.4.1 A significant number of submissions from and on behalf of residents of the adjacent Earl's Court apartments were made to the local authority. Objection to the development was on grounds of negative impact on adjacent residential amenity, inappropriate design, negative impact on protected structures, traffic hazard, parking inconvenience. Concerns also related to overlooking, overshadowing and loss of light impact on privacy, damage to trees and amenity and property devaluation. Other issues raised relation to rights of way, lack of consultation, potential damage and subsidence. The potential for the proposal to prejudice the future regeneration of the Earl's Court apartment block was raised and it was proposed that an integrated development approach is required. The use of green walls to the south facing and east facing façade was considered insufficient to mitigate overbearing impact of the proximity of the commercial block to the apartments. Unease with regard to tenancy and rental issues during construction period, security, noise nuisance traffic and access were also discussed.

3.4.2 Submission from the third party appellants Kevin Woods and Charlotte Sheridan, outline their objection, as reiterated within the grounds of appeal, that the development is premature in the absence of a more detailed urban strategy for the area. The loss of symmetry will seriously detract from the character of the area. Building height is inappropriate as is the approach to provide a landmark structure. Architectural expression and materials are unsuitable and detract from the historic character of Earlsfort Terrace, Adelaide Road and Harcourt Terrace.

## 4.0 Planning History

4.1 The following planning history on the site is noted:

- **2758/13** Department of Enterprise, Jobs Innovation. Davitt House 65A Adelaide Road. Permission granted 12<sup>th</sup> November 2013 for the erection of new railings at basement level and car park on gate of Hatch Lane.
- **0250/09** Seagrave House 19/20 Earlsfort Terrace. Exemption Certificate August 2009 in respect of proposal to replace existing access doors and aluminium frames with similar to the front façade facing onto Earlsfort Terrace, all finishes to match

existing black windows. Doors shall be similar to existing and incorporate mail boxes, key pad access and intercom system.

#### 4.2 Adjacent development history

- **PL29S232964 / 5257/07** Adjoining to north, *Arthur Cox*. Permission to demolish 5 storey building and 2 mews houses. Erect a 9 storey building over 2 storey basement level comprising office and café refurbishment of other structures including 2 no protected structures. Condition 2b of the permission reduced the height of the building to a maximum of 7 storeys above grounds level 14,773 sq.m GFA.

## 5.0 Policy Context

### 5.1. Development Plan

5.1.1 The Dublin City Development Plan 2016-2022 refers.

- The site is Zoned Z6 Employment / Enterprise where the land use zoning objective is “To provide for the creation and protection of enterprise and facilitate opportunities for employment creation.”

Z6 lands constitute an important land bank for employment use in the city, which is strategically important to protect. The primary objective is to facilitate long term economic development in the city region.

Other policies and objectives of the Dublin City Development Plan which are of relevance include.

- **15.1.1.21 SDRA 18 National Concert Hall Quarter.**

“The national Concert Hall quarter (NCHQ) is uniquely positioned to develop as a distinct but connected, cultural, commercial and residential urban quarter, with its own character, identity and architecture, and by adopting an urban scale and grain that can deliver the quality and scale of commercial space required by a contemporary city.



The objectives of the NCHQ SDRA can provide for a number of significant benefits including accessibility and linkages with the Iveagh Gardens, in order to establish the area as a key cultural destination attraction in the city centre. Significant public realm and streetscape improvements, and funding for same can be delivered in an integrated manner through the SDRA designation. The SDRA can also deliver a critical mass of employment generating land uses.

Overall objectives include:

- To promote the development of vacant and under-utilised sites in the character area for high quality commercial development and other uses.
  - To promote the development of buildings of up to 9 storeys commercial to ensure critical mass is achieved to support public transport service and ensure the most efficient use of scarce urban land, subject to preparing visual impact assessments and photomontages to verify the appropriateness of any proposed development in its city wide and local context.
  - To ensure that the architectural composition and design of buildings and clusters of buildings contribute to the sense of place and identity and character of the area.
  - Any proposals for development must have regard to the existing views and vistas from the South Georgian core, while also contributing to the establishment of a distinct form, character and appearance of the National Concert Hall quarter.
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- CEE 11. *“It is the Policy of Dublin City Council to promote and facilitate the supply of commercial space. Where appropriate, eg. Retail and office including larger floor plates and quant suitable for indigenous and DFDI HQ-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 re-development of obsolete office stock in the city.”*

- Policy CC3 *“To promote energy efficiency, energy conservation, and the increased use of renewable energy in existing and new developments.”*
- Policy CC4 *“to encourage building layout and design which maximises daylight, natural ventilation, active transport and public transport use.”*
- Objective CC012 *“To ensure high standards of energy efficiency in existing and new developments in line with good architectural conservation practice and to promote energy efficiency and conservation in the design and development of all new buildings in the city, encouraging improved environmental performance of building stock.”*
- Policy SC7 *“It is the policy of Dublin City Council To protect and enhance important views and view corridors into, out of and within the city, and to protect existing landmarks and their prominence.”*
- 14.7 Transitional Zone Areas.  
*“In dealing with development proposals in contiguous transitional zone areas it is necessary to avoid developments that would be detrimental to the amenities of the more environmentally sensitive zones.”*
- Objective SIO20 *“To promote sustainable design and construction to help reduce emissions from the demolition and construction of buildings.”*
- 16.2 Design Principles and Standards.  
*“All development will be expected to incorporate exemplary standards of high quality sustainable and inclusive urban design and architecture befitting the city’s environment and heritage and its diverse range of locally distinctive neighbourhoods.*  
*In the appropriate context, imaginative contemporary architecture is encouraged provided that it respects Dublin’s heritage and local distinctiveness and enriches its city environment. Through its design, use of materials and finishes, development will make a positive contribution to the townscape and urban realm, and to its environmental performance. In particular, development will respond creatively to and respect and enhance its context.”*
- 11.1.5.6 Conservation Area – Policy Application

*“All new development must have regard to the local context and distinctiveness and the contribution to the local scene of buildings, landmarks, views, open spaces and other features of architectural, historic or topographical interest. The general design principles are set out in a separate policy but it is particularly important within Conservation areas that design is appropriate to the context and based on an understanding of Dublin’s distinctive character areas.”*

- Adjacent land protected structures 17 Earlsfort Terrace RPS Ref 2420 (*Brick House, front area balustrading and walling*) and 18 Earlsfort Terrace RPS Ref 2421 (*Brick House, front area balustrading and walling*). I note a number of protected structures to the west, across Earlsfort Terrace and to the south on Adelaide Road. Earlsfort Terrace terminates at Adelaide Road at the Adelaide Road Presbyterian Church RPS Ref 35. (*Presbyterian Church: front façade, portico steps and railings*)

## 5.2. Natural Heritage Designations

The site is not located within or directly adjacent to any Natura 2000 sites. The Natura 2000 sites within the site’s potential influence are in Dublin Bay including:

North Dublin Bay cSAC (Site Code 000206)

South Dublin Bay cSAC (Site Code 000210)

South Dublin Bay and River Tolka Estuary SPA (Site Code 004024)

North Bull Island SPA (Side Code 004006)

## 6.0 The Appeal

### 6.1. First Party Appeal Grounds of Appeal

- 6.1.1 The first party appeal is submitted by Sheehan Planning and relates to condition 11a. Enclosures to elucidate the appeal grounds include two technical traffic reports one from Roughan & O Donovan, the scheme’s traffic consultants, and the second

an independent peer review report by Traffic Insights. Grounds of appeal are summarised as follows:

- Applicant had proposed 31 car spaces in accordance with the development plan standards for zone 1, where the existing onsite provision is 41 spaces. The disputed condition proposes to restrict this to 16 initially with the possibility of raising it to 24 spaces at some stage subject to an evidence based case deriving from monitoring of the use of the car park.
- The condition implies that proposed monitoring is to commence after development has been operational for six months and gives rise to uncertainty, negative impact on lettability and commercial viability.
- The condition is not well grounded, is unjustified and unnecessary. Two expert reports included with the appeal demonstrate by detailed technical analysis that the likelihood of any on-road queuing arising from 31 spaces is very remote.
- Precedent cases granted by DCC. 2407/15 13-18 City Quay. 2338/15 13-17 Dawson Street, One Molesworth Street 2338/15, 32 Molesworth Street 2497/08, 47/54 Pearce Street and 51 Magennis Place 3293/06, The Ormond Building Ormond Place 3367/07.
- Hatch Place Traffic Survey indicates very low traffic volumes and speeds.
- The proposed access can accommodate up to two stacking vehicles outside the lifts.
- Based on a 2:12 minute cycle time both car lifts can accommodate a combined total of 54 vehicles per hour.
- Worst case scenario predictions demonstrate that the two-lift arrangement with stacking behind each lift provides sufficient capacity to accommodate the development's expected arrival demand without resulting in queuing on Hatch Place.
- Additional operational arrangements include allowing inbound only traffic only in the am peak period via both lifts and at other times of the day one lift will be designated for inbound traffic and one for outbound traffic.

## **6.2 Grounds of Third Party Appeal**

6.2.1 The third party appeal is submitted by Sheridan Woods Architects and Urban Planners on behalf of Charlotte Sheridan and Kevin Woods of 10 Adelaide Road, Grounds are summarised as follows:

- Note location contiguous to Z8 land use zoning whose objective is *“to protect the existing architectural and civic design character, to allow only for limited expansion consistent with the conservation objective”*.
- Site is at transition between a historic context and new development context and requires a particularly sensitive approach.
- Earlsfort Terrace was a deliberate piece of urban planning created by the Wide Street Commissioners designed to connect St Stephen’s Green to the then Circular Road. The Presbyterian Church landmark terminating the vista at the junction between the two roads is a classic example of urban design planning.
- Existing structures on the site generally create a symmetrical building height with the protected structures at the junction of Earlsfort Terrace and on Adelaide road opposite. This frames the landmark Presbyterian church portico that terminates the view from Earlsfort Terrace.
- Although unattractive, the existing buildings on the site subject of the application are respectful and contextual protecting the setting of the protected structures and the setting of the Presbyterian Church on Adelaide Road.
- Development exceeds quantitative standards including plot ratio and site coverage standards therefore attention to qualitative standards is critical.
- Concerns arise in relation to the proposed urban form and consequent loss of symmetrical setting of the existing landmark structure on Adelaide Road.
- Negative impact on character and context of the area with regard to architectural expression and use of materials and negative impact on the setting of the existing protected structures along Earlsfort Terrace.
- Proposed development does not conform with the aspirations of the development plan and does not conform with the proper planning and sustainable development of the area.

- Context of the site does not warrant a landmark structure. Presenting it as such detracts from the Presbyterian Church. Scale should be understated and one that provides a background building form forming part of the urban composition and vista created by the Presbyterian Church. The proposed development should be refused on this basis or if considered appropriate by the Board significantly modified to address this issue through the planning process.
- Notwithstanding the poor architectural aesthetic of the existing development on the site, the brick material integrates with its historic context on Earlsfort Terrace and Adelaide Road in particular and allows for appropriate integration with the south Georgian core. The proposed architectural expression including framed glass together with building height is inappropriate distracting from and detracting from the historic character of the area.
- Photomontage views in full foliage mask the actual impact and views without foliage should be submitted including long views from the Luas track towards the development along Adelaide Road, and from the junction of Earlsfort Terrace and Hatch Street.
- The proposal will leave two remaining protected structures on Earlsfort Terrace dwarfed and sandwiched between two oversized urban blocks. The scale of the corner building at Hatch Street can be rationalised given its location facing Hatch Street, which contrasts with the Adelaide Road Context.
- Proposed development is premature in the absence of a sufficiently detailed urban design strategy and coherent vision for the National Concert Hall Quarter SDRA. The strategy as indicated in the current development plan is insufficiently detailed to achieve this aspiration.
- Piecemeal applications have resulted in compromises such as loss of residential development on Earlsfort Terrace and loss of active uses on Earlsfort Terrace and Hatch Street. The incremental increase of building heights without overall coherence and homogeneity in terms of materials towards Portland stone or similar curtain wall glazing systems is contributing little to the overall sense of place and identity of the area. A brick building is more appropriate at this location.

- Ideally and in accordance with proper planning and sustainable development an overall urban design strategy for National Concert Hall quarter should be undertaken by Dublin City Council or by key stakeholders to appropriately and thoroughly inform the development proposal and potential development proposals that are likely to be submitted to Dublin City Council. A more detailed urban design strategy should include an overall vision for the area with clear definition and understanding of the character areas within the quarter and should give site specific guidance regarding building heights, materials, movement patterns and public realm improvements, to ensure that each new development site is sensitive and responds appropriately to that character area and contributes to achieving the overall vision for the area in an integrated manner.
- If the Board consider development not to be premature, request a refusal on basis that the development is inappropriate to its context, in terms of scale, form, material and architectural expression given its location and will detract for the historic streetscape, particularly the view from Earlsfort Terrace to the Presbyterian Church and view along Adelaide Road and Harcourt Terrace Contrary to Development Plan policy SC7 which seeks to protect important views and existing landmarks.
- The proposed development presents an abrupt and inappropriate transition between the South Georgian core and the proposed new development of the National Concert Hall quarter, which is contrary to the aspirations, policy and objectives of the NCHG SDRA.
- The proposed development would be contrary to Para 14.7 Transitional Zone Areas, policy SC7 which seeks to protect important views and existing city landmarks and para 11.1.5.6 Conservation area.

### **6.3 Applicant Response to Third Party Appeal**

6.3.1 The first party response to the third-party appeal<sup>1</sup> is summarised as follows:

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<sup>1</sup> I note that the first party response refers to two third party appeals however a second third party appeal initially lodged by Earl Court Management Company was subsequently withdrawn by letter received by the board 24<sup>th</sup> May 2018.

- In relation to the proposed scale and massing, the streets around the site, in particular Adelaide Road, are tree lined, and when in leaf will appear as depicted. Baseline photography was retaken in March 2018 and photomontages updated accordingly. Winter and summer photomontages demonstrate that the development will not have a significant impact.
- Regarding concerns about the loss of symmetry in the Earlsfort Terrace buildings framing the former Presbyterian Church, the additional photomontage from viewpoint outside the national concert hall illustrates the impact arising. The additional photomontage (Appendix C) shows the true streetscape context and framing of the former church and clearly shows that the street is characterised by modern 7 storey buildings at the corner of Earlsfort Terrace and Hatch Street (Arthur Cox and Deloitte Buildings) and along Earlsfort Terrace and that façade treatment respects the existing context. Appendix C includes another new photomontage taken from the curve of the luas on Adelaide Road looking east towards the development.
- The seventh storey height is considered appropriate at this location and does not lead to a significant adverse visual or other impact and is well within the theoretical maximum for the area (9 storeys) and reflects the recently permitted heights in the vicinity.
- Brick is not considered appropriate. The highest quality lightweight stone framing over the glazed elements of the development is designed to create a vertical rhythm not dissimilar to the vertical rhythm apparent in the surrounding buildings, be they brick or the “Belgravia style” buildings on the opposite side of Earlsfort Terrace.
- There is no suggestion in the development plan that development within SDRA18 would be premature pending more detailed urban design guidance. One of the key objectives of SDRA18 is to increase density in the area
- Adjacent structures will be protected during the redevelopment of the site.
- Design mitigates impact on residential amenity.
- Proposed development will not be visible from any point in the South Georgian Core.



- Proposed development is appropriate in terms of its setting and will not have any significant adverse impacts either visual or otherwise.
- Proposal complies with objectives of Z6 zoning and contributes to the ambition of SDRA 18.

#### **6.4 Planning Authority Response**

6.4.1 The Planning Authority did not respond to the appeals.

#### **6.5 Third Party Appellant's Observations on First Party Response to appeal.**

6.5.1 The submission which includes a number of images to expound arguments made is summarised as follows:

- Additional photomontage images demonstrate that the proposed scale height form and building material being proposed are inappropriate to the historic and transitional context of the proposed development site.
- Acknowledge the quality of the work of Henry J Lyons and note a similar scheme in the Docklands which was appropriate to quayside context. Appeal site merits a more sensitive design approach. Reference is made to recent completed office development on Molesworth Street and at the junction with Dawson Street, noting the use of brick and stone presented in contemporary style.
- While Dublin City Council Defined the concert hall quarter as a strategic development regeneration area, this was included in the final stage of the preparation of the development plan and is based on a two dimensional 'sketch' only. Piecemeal applications comprising homogenous style office buildings are being proposed and permitted with minimal consideration of the cumulative impact of the collective.

### **7.0 Assessment**

7.1 The main issues that arise for assessment by the Board in relation to this appeal can be considered under the following broad headings:

- Principle of Development in the context of Development Plan and specific requirements at 15.1.1.21 in relation to the redevelopment of the National Concert Hall Quarter SDRS 18.
- Design, plot ratio, height and impact on visual amenity and cultural heritage
- Impact on established residential amenity. Overshadowing and Overlooking.
- First Party Appeal of Condition 11a
- Appropriate Assessment Screening
- Environmental Impact Assessment Screening

## **7.2 Principle of Development**

7.2.1 The proposed development is acceptable in principle in the Z6 - Employment / Enterprise zoned area where the objective is to provide for the creation and protection of enterprise and facilitate opportunities for employment creation". As regards locational aspect, the appeal site is centrally located within an area which is highly accessible by public transport and is recognised as major location for large scale city centre based office development. The Development Plan acknowledges that Z6 lands constitute an important land bank for employment use in the city which is strategically important to protect. I note the Development Plan requirements in respect of transition zones requiring the avoidance of abrupt transitions or developments that would be detrimental to the amenities of the more environmentally sensitive zones. In the appeal case the adjoining residential use and protected structures architectural and historic character this is a matter of detail to be considered further below.

7.2.2 The provision of a modern office use will clearly improve the overall vibrancy and vitality of this area and provide for critical mass of employment generating uses. I have noted the submission of An Taisce to the local authority questioning the appropriateness of demolition as opposed to refurbishment and upgrade of the existing structures. The submission asserts that the energy consumption savings from a new build will never overcome the significant environmental footprint of demolition and replacement. The first party however has outlined, in terms of a justification for the demolition of the existing buildings, that the existing structures are not fit for purpose in terms of design and fit out and in order to reach a high energy

efficiency target, it would be necessary to incorporate a significant amount of additional plant and equipment and even then, the structure may function only moderately in terms of environmental performance and would not meet the current requirements of corporate tenants. I consider that in terms of the principle of development, there is policy support for this development and the principle of demolition and replacement has been justified.

7.2.3 As regards the requirements for the development of SDRA 18 National Concert Hall Quarter as set out at 15.1.1.21, of the Dublin City Development Plan 2016-2022, I have noted that the development plan sets out guiding principles for strategic development and regeneration areas (SDRAs). In relation to SDRA 18, I note a number of overall objectives which are pertinent in terms of the assessment of this appeal

- to create a critical mass of employment generation lands uses to utilise the investment in public transport in the area and to facilitate the delivery of additional planned public transport services.
- to promote the development of vacant and under-utilised sites in the character area for high quality commercial development and other uses.
- to promote the development of buildings of up to 9 storeys commercial to ensure critical mass is achieved to support public transport services and ensure the most efficient use of scarce urban land, subject to preparing visual impact assessments and photomontages to verify the appropriateness of any proposed development in its city wide and local context.

7.2.4 I consider that the proposed development has demonstrated compliance with the above objectives. As regards the third party appellant's contention that the proposal is premature pending the completion of an urban design strategy for the National Concert Hall Quarter, I note that there is no reference to area specific guidance for the National Concert Hall Quarter SDRA within Table F of the Development Plan - Schedule of proposed Statutory Local Area Plan Strategic Development Zones to deliver the core strategy. I also note that there is no indication of same within the documentation from the Local Authority therefore notwithstanding the merits of provision of such a coordinated and integrated approach to development proposals,

on the basis that the Development Plan does not require nor envisage such an approach. The development cannot be deemed to be premature in the absence of a definite prospect of such guidance. On the basis of the foregoing I consider that there is no fundamental conflict in principle with the objectives of the development plan. Thus, it is appropriate to advance the assessment to the detail of the proposed development.

### **7.3 Design, plot ratio, height. Impact on Visual Amenity and Cultural Heritage.**

7.3.1 The plot ratio associated with the proposed development is 4.5:1 which is significantly more than the indicative plot ratio standards as set out in the development plan of 2.0-3.0. Site coverage is 66% again exceeding the indicative standard of 60%. The Development Plan provides for increased plot ratio and higher site coverage in particular circumstances such as

- adjoining major public transport termini and corridors, where an appropriate mix of residential and commercial uses is proposed,
- to facilitate comprehensive redevelopment of areas in need of urban renewal
- to maintain existing streetscape profiles
- where a site already has the benefit of a higher site coverage plot ratio.

Plot ratio is a somewhat crude instrument in terms of measuring density and the avoidance of the adverse effects of overdevelopment and the specific nature and qualitative elements of the proposal need to be considered in terms of the assessment of the appropriateness of the development as proposed to its context. In assessing the wider considerations, it is appropriate to rely on the qualitative factors defining built form including height, design, open amenity space provision, and standards of public realm.

7.3.2 In relation to building height, the development conforms to the height limit of 28 metres for commercial (office) development within the 'inner city'. I note also that the development plan provides for "buildings of up to 9 storeys commercial" within the

National Concert Hall Quarter. I note the concerns raised within the third party appeal with regard to the scale and height of the proposed building. Clearly additional building height over and above prevailing height can have a considerable impact in the context of historic buildings, conservation areas. I consider however that the context, and in light of more recent additions, the proposed design, as modified in response to the council's request for additional information, with an increased progressive setback at sixth and seventh floor level appropriately mitigates the visual impact arising. In my view the increase in height is appropriate. I consider that the proposal does not erode the innate character of the setting and I consider that the approach in terms of the building height strategy has been justified.

7.3.3 The third-party appellant party is also critical of the architectural expression and material and asserts that the structure is out of character in this locale and results in a loss of symmetry in the Earlsfort Terrace buildings framing the vista to the Presbyterian Church. It is asserted that the provision of a landmark structure is not warranted and that the use of a red brick is more appropriate. I note the innovative contemporary character of the design, exemplary environmental performance and considerable attention to detailing. As regards the façade treatment the first party asserts that the development seeks to address and activate the street and in my view, succeeds in this regard. The façade material a natural light coloured moleanos limestone provides for a light appearance in contrast to the red brick and the contrast of stone framing over glazed elements is designed to create a vertical rhythm in a nod to surrounding building. I note the detail of the evolution of the design as set out in the submitted architectural design statement and I consider that the proposed design has been justified.

7.3.4 The photomontage views submitted which include winter views in response to the grounds of appeal, addresses the potential impact arising. I consider that the proposal will have an impact on the setting of the Presbyterian Church on Adelaide Road and that of the adjacent protected structures, however, I consider that these adjacent structures maintain their own significance and their new context will contribute to a high quality urban realm. The proposed development provides for a landmark structure which in my view is positive and in tune with development plan goals for the area namely the encouragement of a strong identity through innovative

good contemporary architecture good street network and high quality public realm. In my view the development provides a high-quality design approach. I consider in relation to the visual impact and impact on cultural heritage that the proposal is of a high standard and is innovative and contemporary yet acknowledging of its context. The provision for improved activity and engagement at street level and enhancements to the public realm is in my view successful from an urban design perspective.

#### **7.4 Impact on established residential amenity overlooking and overshadowing.**

7.4.1 The potential for negative impact on established residential amenity is assessed particularly with regard to impact of overshadowing and overlooking of the adjacent Earl Court apartment block. The first party provided a sunlight analysis to assess the effect of the proposed development in line with BRE guide "Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice 2011. As the proposed building is situated within 90° of due north of all living room windows in Earl Court, it will have negligible effect on these rooms with regard to access to sunlight. Before and after shadow plots assessed the difference between proposed and existing situation with regard to overshadowing and demonstrate no significant differences in the shadows cast. As regards overlooking the proposal increases the setback from the Earl Court apartments on the eastern interface. The northern façade steps closer reducing the gap to 10.5m. In terms of mitigation it is proposed to provide a green wall / vertical garden to mitigate overlooking impact. I note that the Earl Court building has no amenity space therefore relies to a degree on its setting and incidental areas around the block in terms of amenity. I note the submission in response to the Council's request for additional information which set out an indicative and landscaping scheme for incidental areas around the Earl Court block which is subject to the agreement of owners.

7.4.2 I note that a certain degree of overlooking by the established office buildings currently arises. Having regard to the proposed continued office use, the office occupancy rate will vary from the established residential use thus mitigating potential amenity impact. I consider that it is reasonable to conclude based on the

information submitted that the proposed development will have a moderate impact on the adjacent Earl Court apartments. Having regard to the location and zoning designation of the site, it is reasonable to conclude that the proposed development will not have significant adverse impact on established residential amenity as a result of overlooking, overshadowing sunlight and daylight access.

## **7.5 First Party Appeal of Condition 11a.**

### **7.5.1 Condition 11 requires:**

*“ The development shall comply with the following requirements of the roads and traffic planning division*

*(a)Prior to the commencement of development, the applicant shall submit a revised basement plan which reduces the number of demarcated parking spaces proposed to service the office development to 16 no parking spaces. Once the development is operational, for a minimum of 6 months, the applicant can monitor the use of the car park and submit an evidence based case for increase in parking at basement level to a maximum of 25 no spaces.”*

7.5.2 The application proposed 31 car parking (reduced in response to request for additional information from an original proposal for 33 spaces). Existing on site provision is 41 spaces. The proposal for 31 spaces represents the maximum car parking standard for office uses in zone 1, as set out in Table 16.1 of the Dublin City Development Plan 2016-2022. The condition was imposed as recommended by the roads and traffic division who outlined concerns with regard to the potential for queuing on the public road arising from proposed 2 lift access from Hatch Place.

7.5.3 The first party appeal questions the basis for the condition and notes the uncertainty arising from the apparent requirement for period of monitoring following a six month operational period. The applicant has submitted two expert technical reports with the grounds of appeal which seek to demonstrate that the likelihood of any on road queuing arising will be very remote. Furthermore, it is proposed to provide for additional operational measures to include restricting inbound only traffic in the am

peak period via both lifts. I consider that the evidence provided is reasonable, and I find that the basis for restriction of parking provision below Development Plan maximum standards has not be justified. I conclude that condition 11a should be removed and consider that the development is acceptable from a traffic and transport perspective.

## **7.6 Appropriate Assessment Screening**

7.6.1 The site is not located within or directly adjacent to any Natura 2000 sites. In relation to the identification of the sites which would be potentially affected using the source pathway receptor model, the Natura sites within the sites potential influence are those within Dublin Bay namely:

North Dublin Bay cSAC (Site Code 000206)

South Dublin Bay cSAC (Site Code 000210)

South Dublin Bay and River Tolka Estuary SPA (Site Code 004024)

North Bull Island SPA (Side Code 004006)



7.6.2 Having regard to the brownfield nature and scale of the development and nature of the receiving environment and 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 and projects on a European Site.

7.6.3 It is reasonable to conclude that on the basis of the information on the file, which I considered adequate in order to issue a screening determination, that the proposed development individually or in combination with other plans or projects would not be likely to have a significant effect on any European site, in view of the sites' conservation objectives, and a Stage 2 Appropriate Assessment (and submission of an NIS) is not therefore required.

## **7.7 Environmental Impact Assessment Screening**

7.7.1 On the issue of Environmental Impact Assessment screening I note that the relevant class for consideration is class 10(iv) "*Urban development which would involve an area greater than 2 hectares in the case of a business district, 10 hectares in the case of other parts of a built-up area and 20 hectares elsewhere*". Having regard to the size of the development site (.286ha) and scale of the development it is sub threshold and does not the proposal does not require mandatory Environmental Impact Assessment. Having regard to the nature and scale of the proposed development, the brownfield nature of the receiving environment, and to the nature, extent, characteristics and likely duration of potential impacts, I conclude that the proposed development is not likely to have significant effects on the environment and that the submission of an Environmental Impact Statement is not required.

## **8.0 Recommendation**

8.1 Having considered the contents of the planning application, the decision of the planning authority, the provisions of the development plan, the grounds of appeal

and the responses thereto, my inspection of the site and my assessment of the planning issues, I recommend that permission be granted for the development for the reasons and considerations set out below.

## **Reasons and Considerations**

Having regard to the city centre location of the development, the pattern of development in the area, to the provisions of the Dublin City Development Plan 2016-2022 and to the nature, scale, layout and design of the proposed development, it is considered that the proposed development would provide for a strong and architecturally appropriate building on this site, would provide for a vibrant form of development which is likely to assist in the achievement of the wider objectives for the National Concert Hall Quarter. Subject to compliance with the conditions set out below, the proposed development would not seriously injure the visual or residential amenities of the area or of adjoining property, would be acceptable in terms of impact on architectural and cultural heritage of the area and would be acceptable in terms of traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## **Conditions**

1. The development shall be carried out and completed in accordance with the plans and lodged with the application, as amended by the further plans and submitted on the 13<sup>th</sup> day of December 2017, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity

2 The developer shall facilitate the preservation, recording and protection of archaeological materials or features that may exist within the site. In this regard, the developer shall

(a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development,

(b) employ a suitably-qualified archaeologist who shall monitor all site investigations and other excavation works, and

(c) provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove.

In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.

Reason: In order to conserve the archaeological heritage of the site and to secure the preservation and protection of any remains that may exist within the site.

3. Details, including samples, of the materials, colours and textures of all the external finishes to the building shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

4. All works adjacent to the protected structures shall be carried out under the supervision of a professional with specialised conservation expertise, in accordance with the Department of the Environment, Heritage and Local Government Conservation Guidelines and in accordance with Best Conservation Practice.

Reason: To ensure the authentic preservation of the protected structures and to ensure that the proposed works are carried out in accordance with best conservation practice.

5. Notwithstanding the exempted development provisions of the Planning and Development Regulations, 2001, as amended, no additional plant, machinery or telecommunications structures shall be erected on the roofs of any of the building; height shall any external fans, louvres or ducts be installed without a prior grant of planning permission.

Reason: In the interest of visual amenity.

6. No signage, advertising structures / advertisements, security shutters or other projecting elements, including flagpoles, shall be erected within the site unless authorised by a further grant of planning permission.

Reason: To protect the visual amenities of the area.

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

Reason: In the interest of public health.

8. Public lighting shall be provided in accordance with a scheme, details of which shall be submitted to the planning authority for agreement prior to the commencement of development.

Reason: In the interest of amenity and public safety.

9. Site development and building works shall be carried out only between the hours of 0700 to 1800 Mondays to Fridays inclusive, between 0800 to 1400 hours on

Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: In order to safeguard the residential amenities of property in the vicinity.

10. Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the "Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects", published by the Department of the Environment, Heritage and Local Government in July 2006. The plan shall include details of waste to be generated during site clearance and construction phases, and details of the methods and locations to be employed for the prevention, minimisation, recovery and disposal of this material in accordance with the provision of the Waste Management Plan for the Region in which the site is situated.

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

11. The construction of the development shall be managed in accordance with a construction and demolition management plan which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including:
  - (a) Location of the site and materials compound including area identified for the storage of construction refuse
  - (b) location of areas for construction site offices and staff facilities
  - (c) Details of site security fencing and hoardings;
  - (d) Details of parking / transport facilities for site workers during the course of construction

(e) Details of timing and routing of construction traffic to and from the construction site and associated directional signage, to include proposals to facilitate the delivery of abnormal loads to the site.

(f) measures to obviate queuing of construction traffic on the adjoining road network

(g) Measures to prevent the spillage or deposit of clay rubble or other debris on the public road network;

(h) alternative arrangements to be put in place for pedestrians and vehicles in the case of closure of any public road or footpath during the course of site development works;

(i) details of appropriate mitigation measures for noise, dust and vibration and monitoring of such levels.

(j) Containment of all construction related fuel and oil within specifically constructed bunds to ensure that fuel spillages are fully contained. Such bunds shall be roofed to exclude rainwater;

(k) Off-site disposal of construction / demolition waste and details of how it is proposed to manage excavated soil;

(l) Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains.

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

12. Prior to the opening of the development, a mobility management strategy shall be submitted to and agreed in writing with the planning authority. This shall provide for incentives to encourage the use of public transport, cycling, walking and car-pooling by staff employed in the development and to reduce and regulate the extent of staff parking. The mobility strategy shall be prepared and implemented by the management company within the development. Details shall be agreed with the planning authority and shall include the provision of centralised facilities within the development for bicycle parking, shower and changing facilities associated with the policies set out in the strategy.

Reason: In the interest of encouraging the use of sustainable modes of transport.

13. A plan containing details for the management of waste (and, in particular, recyclable materials) within the development, including the provision of facilities for the storage, separation and collection of the waste and recyclable materials and for the ongoing operation of these facilities shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the waste shall be managed in accordance with the agreed plan.

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

14. The landscaping scheme shown on planting strategy as submitted to the planning authority on the 13<sup>th</sup> day of December 2017 shall be carried out within the first planting season following substantial completion of external construction works.
- All planting shall be adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or diseased, within a period of [five] years from the completion of the development shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

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

15. (a) Prior to commencement of development, trees on Adelaide Road, which are to be retained shall be enclosed within stout fences not less than 1.5 metres in height.
- This protective fencing shall enclose an area covered by the crown spread of the branches, or at minimum a radius of two metres from the trunk of the tree, and shall be maintained until the development has been completed.

(b) No construction equipment, machinery or materials shall be brought onto the site for the purpose of the development until all the trees which are to be retained have been protected by this fencing. No work is shall be carried out within the area enclosed by the fencing and, in particular, there shall be no parking of vehicles, placing of site huts, storage compounds or topsoil heaps, storage of oil, chemicals or

other substances, and no lighting of fires, over the root spread of any tree to be retained.

**Reason:** To protect trees and planting during the construction period in the interest of visual amenity.

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

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme.

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



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

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Bríd Maxwell  
Planning Inspector

15<sup>th</sup> October 2018