



An
Bord
Pleanála

Inspector's Report ABP-300917-18

Development	Demolition of a one/two-storey existing vacant commercial gym building and the construction of a four-storey building consisting of 192 no. bedspaces of tourist accommodation and a residents' cafe.
Location	9 Fitton Street, Cork
Planning Authority	Cork City Council
Planning Authority Reg. Ref.	17/37530
Applicant(s)	Eoin Sheehan
Type of Application	Permission
Planning Authority Decision	Grant, subject to 28 conditions
Type of Appeal	Third party -v- Decision
Appellant(s)	Seamus & Eileen Lantry
Observer(s)	None
Date of Site Inspection	28 th June 2018
Inspector	Hugh D. Morrison

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1.0 Site Location and Description

- 1.1. The site is located in the southern portion of Cork city centre, which lies to the south of South Mall. This site is situated on the southern side of Fitton Street East, a Street that has a dog-leg alignment and which runs on a roughly east/west axis between Morrison's Quay and Father Matthew Street. This Street also connects with Keefe Street and Catherine Street, which between them form an "L" shape in plan-view and run between the mid-point of Fitton Street East and Morrison's Quay. (A local landmark building is the Regency Gothic-style Holy Trinity Church, which is sited on the corner of Father Matthew Street and Father Matthew Quay).
- 1.2. Land use on Fitton Street East and the adjoining Streets includes instances of retail, commercial, and residential uses. Buildings on the northern side of this Street range from three to six storeys, with a pattern of lower older buildings and higher modern ones. The southern side comprises buildings that are of one, two, and three storeys in height. The adjoining Keefe and Catherine Streets have cleared sites with surface car parks upon them.
- 1.3. The site itself has a street-fronted part single storey/part two storey building upon it, which is vacant having been last used as a commercial gym. To the east, this building adjoins a two storey dwelling house with an integral garage and a converted roofspace. To the west, it adjoins an ESB sub-station and the former Scots Church, which is now in use as an eatery. (The sub-station fronts onto Fitton Street East and it is sited forward of the Church, which fronts onto Father Matthew Street).
- 1.4. The site has an area of 0.044 hectares and the existing building has a floorspace of 496.2 sqm.

2.0 Proposed Development

- 2.1. The proposal would entail the demolition of the existing building on the site and the construction in its place of a four-storey building (1303.9 sqm). This building would provide 192 no. bedspaces of tourist accommodation, i.e. 64 no. bedspaces on each of the upper floors, i.e. first, second, and third floors. The ground floor would

comprise ancillary spaces, which would include an entrance lobby accessed off Fitton Street East and a patrons' café. A bin yard would be sited in the south-western corner of the site.

- 2.2. The proposed building would be of contemporary design. It would incorporate a glazed "shop front" with full floor to ceiling height glazed openings to the upper floors above, which would be accompanied by Juliet balconies. (This "shop front" was modified at the further information stage to achieve improved alignment with the adjoin ESB sub-station). The eastern side elevation would be clad in natural stone at ground floor level and circulation areas on the upper floors would be accompanied by an extensive translucent linear channel glass opening. The western side elevation would incorporate a recessed space above the café, which would provide a lightwell. The rear elevation would have a projecting single storey ground floor element and the upper floors would incorporate three projecting features, which would be triangular shaped in plan-view and which would have windows angled in a south south-western direction.

3.0 Planning Authority Decision

3.1. Decision

Following receipt of further information, permission was granted subject to 28 conditions.

3.2. Planning Authority Reports

3.2.1. Planning Reports

Further information was requested with respect to archaeology, design, signage, status of café, management of hostel, and legal access over site.

3.2.2. Other Technical Reports:

- Irish Water: No objection, standard notes.
- Environment: No objection, subject to conditions.
- Drainage: Following receipt of further information, no objection, subject to conditions.

- Conservation: No objection, subject to a condition.
- Transport and Mobility: No objection, subject to conditions.
- Roads Design: No objection, subject to conditions.
- Archaeology: Following receipt of further information, no objection, subject to a condition.

4.0 Planning History

Pre-application consultation occurred on 8th February 2017.

5.0 Policy Context

5.1. Development Plan

Under the Cork City Development Plan 2015 – 2021 (CDP), the site lies within an area that is zoned Z02, City Centre Commercial Core Area. The accompanying Zoning Objective is “To support the retention and expansion of a wide range of commercial, cultural, leisure and residential uses in the commercial core area (apart from comparison retail uses).”

Objective 8.11(a) “To encourage a broader range of visitor accommodation in the city and the expansion of the city’s hotel base;”

The NIAH has identified an adjoining building and one opposite the site in its survey of Cork City, i.e. a former church (ref. no. 20514345) and a former coach house (ref. no. 20514363). It also identifies the nearby Holy Trinity Church on Father Matthew Quay (ref. no. 2054326), which is a protected structure, too (RPS 078). This Church is the subject of a protected view from the east, RP2.

Chapter 16 of the CDP addresses development management. Table 16.1 states that indicative plot ratios for the city centre are 1.5 – 2.5 and building height “should generally respect the area’s existing character and context and should be in accordance with the prevailing hierarchy/character of buildings, save in exceptional circumstances where an increase in building height can be justified on sound urban design or architectural grounds.”

5.2. Natural Heritage Designations

Cork Harbour SPA (site code 004030)

Great Island Channel SAC (site code 001058)

6.0 The Appeal

6.1. Grounds of Appeal

The appellants have no objection in principle to the redevelopment of the site. They do however object to the current proposal on the following grounds:

- The validity of the application is questioned as the correct address of the property has not been used, i.e. it should be Nos. 9, 10 & 11 Fitton Street East. Furthermore, the site notice was not posted on the site, but on the adjoining ESB premises.
- The appellants reside at No. 8 Fitton Street East. This dwelling house fronts onto the Street to the north and so it is reliant upon windows in its rear elevation for direct light and sunshine. These windows would be severely impacted upon by the proposal.

The only outdoor amenity space available to the appellants is a small yard to the rear. This too would be greatly impacted upon.

The site lies to the west of the appellants' dwelling house and it is much deeper than their house plot. Under the proposal, it would be developed to provide a four-storey building and so from mid-day on this building would obstruct light and lead to overshadowing, including to a first-floor sunroom, and it would dominate the outlooks from the said windows and yard. The value of their dwelling house would be affected, too.

- Attention is drawn to the rear elevation of the former Scots Church (now in use as a restaurant), which abuts the site. This elevation contains an emergency exit, which is connected to a gangway, and a window and it supports fans and other electrical apparatus. These facilities would be lost under the proposal.

Under further information, the applicant's solicitor confirmed that there are "no third party, registered right of way or easement affecting our client's title." This confirmation does not exclude the possibility of unregistered rights, such as established rights, e.g. the fans date from 1997 and the emergency exit and window date from at least 1982 and maybe from as far back as 1971.

Attention is also drawn to the translucent linear channel glass that would be installed on the eastern elevation of the proposed building, adjoining an existing cleared site, which is in use as a surface car park. This glass would admit light to upper floor corridors. If and when the cleared site is redeveloped to provide a multi-storey building, such light would be lost: might a right to light have, nonetheless, been established that would restrict such redevelopment?

- Attention is drawn to the proposal's impact upon the streetscape where it would be out of proportion with existing buildings and where it would be particularly overbearing with respect to the former Scots Church. Due to the narrowness of the Street, views from either end would be the ones in which the full scale of the proposal would become apparent.
- The CDP's height policy refers to the existing character and context of streets. The site lies within a block, which at present has no buildings of comparable height to that proposed. Thus, a reduction in its height would be in order, specifically the omission of the third floor and the setting back of the second floor by 1.5m to the front and sides.

The applicant rejected even the modest request to set back the third floor. His justification for doing so is critiqued in terms of the irrelevance of any pre-application proposals, the context of the site, i.e. the presence of a modest dwelling house on one side and the former Scots Church on the other side, instances of smaller buildings, which are in use as hostels, and the misapprehension that the proposed lift could not be re-sited.

- The proposal would have a plot ratio of 2.96, whereas the relevant range in the CDP is 1.5 – 2.5. Given its aforementioned context, the case for a relaxation does not arise.

Paragraph 16.80 sets out criteria relevant to the assessment of hostel proposals for residential areas. Against these criteria, the current proposal would fail at multiple points.

- Inevitably, the introduction of a 192-bedspace hostel into Fitton Street East would generate noise and disturbance to existing residents, especially at anti-social hours.
- The CDP seeks to encourage people to reside in the inner city. The appellants have resided on Fitton Street East since 1982 and so they are long-term residents. The current proposal would run contrary to the said encouragement.
- The appellants have, at the application stage, commented upon the archaeology of the site and they express concern that surface water drainage arrangements have not been sufficiently thought through.

6.2. Applicant Response

The applicant draws attention to the following new buildings in the vicinity of the site: a six-storey building (top two storeys are recessed) at Nos. 18, 19, 29 and The Gospel Hall on Father Matthew Street, a five-storey building (top storey is recessed) to the north west, and a five-storey building on the opposite side of Fitton Street East. These buildings provide precedent for the current proposal, which in turn, it is hoped, will be a catalyst for further redevelopment of the block within which the site is located.

The applicant responds to the appellants' grounds of appeal as follows:

- The application was validated and, at the time, the view was expressed that Fitton Street and Fitton Street East can be used inter-changeably. The site notice was checked on a daily basis.
- The accuracy of the appellants' submitted drawings is questioned.

No sunlight/shadow analysis was requested and the case planner, while acknowledging that a loss of lighting would affect the appellants' dwelling house, did not consider that this would be unreasonable for an urban location.

An existing high boundary wall between the site and the appellants' residential property limits the outlook from windows in the rear elevation of their dwelling house. Velux windows are orientated away from the site and, in turn, the windows in the rear elevation of the proposed building would be orientated away from this dwelling house.

Under further information, the ground floor front elevation was modified to line through with the adjoining building to the west and the applicant clarified that the translucent glass to be installed in the eastern side elevation would serve corridors and so any right to light over the adjoining cleared site would not ensue.

- Reference is made to the incidence of higher buildings within the vicinity of the site and the aforementioned modification to the proposed ground floor front elevation.

The absence of higher buildings from the block within which the site is located can be explained on the basis that this block, unlike surrounding ones, has not been the subject of any redevelopment in recent times. Thus, the relevant reference point for the proposal is the overall area rather than the subject block. Within this context, the proposal would be of appropriate height.

The original proposal at the pre-application stage was for a six-storey building. This was revised to four storeys and so further revisions would be unreasonable and they would both render the project unviable and lead to the under development of the site.

- Given the precedent of higher buildings within the vicinity of the site and give, too, the advice of the recently published National Planning Framework, the plot ratio of 2.96 exhibited by the proposal should be acceded to. Examples of recently permitted hotel redevelopments in the city centre provide precedents for greater plot ratios again, e.g. Windsor Inn, Metropole Hotel, and Met Hotel.
- The site lies within predominantly a commercial area rather than a residential one. Thus, with redevelopment this area is unlikely to be “a quiet area” in the future.

The proposed tourist accommodation would be managed. Thus, open access would exist between 07.00 and 23.00 and a night porter would always be on duty. Thus, noise and disturbance is not anticipated.

The proposed café would be for use by patrons of the tourist accommodation only.

- For the city centre to thrive, vibrant uses such as the one proposed are needed. So, while residential uses are appropriate, too, they should not be at the expense of vibrancy.
- The Planning Authority has assessed the archaeology and attached a precautionary condition. Further assessment is not, therefore, needed.
- Surface water drainage and flood risk have all been adequately addressed by the applicant and the relevant statutory bodies.

6.3. Planning Authority Response

The omission of condition 2 from the draft permission is noted. Beyond that no further comments.

6.4. Observations

None

6.5. Further Responses

The appellants respond to the applicant's response by drawing attention to the failure to engage with many of the specific points raised by them in their grounds of appeal. They also reiterate many of these points.

The following additional points are also made:

- With respect to the validity of the application the absence of any express consent from the other owner of the site to the making of the application is highlighted.
- The boundary wall referred to is 8m high. The proposed building would be far higher.

- What is the legal basis for the applicant's contention that the translucent glass would not establish a right to light, just because it would serve corridors?
- That the proposal would be a catalyst is questioned on the basis that it would sterilise the adjoining site to the east and interfere with the operations of the restaurant in the former Scots Church to the west.
- Any question of under development needs to be seen in the context of a three-storey building complying with the CDP's indicative plot ratio range for the site.
- The appellants state that there are 19 homes on Fitton Street East besides their own one and so residential uses are a significant presence on the same.

7.0 **Assessment**

7.1. I have reviewed the proposal in the light of the CDP, relevant planning history, the submissions of the parties, and my own site visit. Accordingly, I consider that this application/appeal should be assessed under the following headings:

- (i) Legalities,
- (ii) Land use,
- (iii) Design,
- (iv) Amenity,
- (v) Water, and
- (vi) AA.

(i) Legalities

7.2. The appellants have raised several legal queries relating to the application and the proposal itself. I will review and discuss each of these in turn.

7.3. Firstly, attention is drawn to the stated address of the site. The address used by the applicant for the site is No. 9 Fitton Street, whereas the appellants state that this should be Nos. 9, 10 & 11 Fitton Street East. The applicant has responded by stating that the address used by him formed part of the application that was validated by the Planning Authority.

- 7.4. Secondly, the appellants state that the site notice was posted upon the ESB sub-station rather than the existing building on the site. The applicant has not addressed this point directly, but he has insisted that a site notice was insitu for both the original application and the further information stage.
- 7.5. During my site visit, I observed street name signage that states "Fitton Street East". Nevertheless, I recognise that it is the Planning Authority's role, exclusively, to validate applications and that it evidently took the view that Fitton Street and Fitton Street East are used inter-changeably. No property number was evident on the existing building and no site notice remained insitu and so I am prepared to defer to the Planning Authority on these matters.
- 7.6. Thirdly, in their response to the applicant's response to their grounds of appeal, the appellants submit an extract from the Land Registry, which appears to show that the applicant is not the sole owner of the site and yet the other stated owner has not given his express consent to the making of the application. The applicant has not been given the opportunity to date to respond to this matter. The Board may wish to extend such an opportunity. Nevertheless, I am mindful of Section 34(13) of the Planning and Development Act, 2000 – 2018, which states that "A person shall not be entitled solely by reason of a permission under this section to carry out any development."
- 7.7. Fourthly, attention is drawn to the items either in or on the rear elevation of the former Scots Church, which abuts the western boundary of the site. These items comprise a first-floor emergency exit and gangway, a first-floor window, suspended electrical apparatus, a cooling system, and a ventilation outlet. Consequently, under further information, the Planning Authority enquired as to whether any legal access was held by other parties over the site. The applicant confirmed that there is no such access registered on his title to the site. The appellants have responded by highlighting the word "registered" in this confirmation. They go on to state that, as the cited items have been insitu for considerable periods of time, the possibility arises that unregistered rights may exist.
- 7.8. I note, again, the aforementioned Section 34(13) of the Planning and Development Act, 2000 – 2018. I note, too, that the former Scots Church has been identified by the NIAH as being of architectural interest and, in this respect, it is given a regional

rating. At present this Church is in use as an eatery and the items on its rear elevation may well be of importance or be even critical to the functioning of this use. As a building of conservation interest, the handling of any re-siting is likely to be a matter of some sensitivity. The proposed lightwell that would adjoin the elevation in question may afford some opportunity for re-siting, although if the door and gangway do indeed constitute an emergency exit, then this enclosed lightwell would not be of assistance. (During my site visit, I observed that a bin was in position on the gangway and so it may function as an impromptu yard). The absence of even any indicative solutions to these problems is of concern, given the conservation status and successful reuse of the former Scots Church.

- 7.9. Fifthly, attention is drawn to the extensive translucent linear channel glass opening that is proposed for the upper floors of the eastern side elevation. This opening would accompany corridors that are continuous with the stairwell within the building. The appellants question whether the presence of this opening would establish a right to light over the adjoining surface car park, thereby restricting any future redevelopment of this car park. The applicant addressed this issue under further information by emphasising that the opening would be translucent. He thus appears to conclude that, as it would not function as a conventional window, no issue would arise. The appellants have responded by stating that this does not deal with the right to light question.
- 7.10. Whereas the legal question of a right to light is addressed separately from planning legislation, insofar as such a right in this instance may affect the potential for the redevelopment of the adjoining car park site, it is a matter of concern. Furthermore, even if such a right did not arise, redevelopment scenarios for this site would be likely to negate all or part of the light afforded by this opening. In these circumstances, I consider that it would be prudent for the applicant to safeguard the admission of light to the upper floor corridors and stairwell, which are continuous with one another, e.g. by means of a lightwell on the eastern side of the building.
- 7.11. The fourth and fifth points raised by the appellants, if not satisfactorily resolved, could have a negative impact on, variously, the current use and the future development of properties on either side of the applicant's site. Thus, rather than being the catalyst for the regeneration of the wider area, as anticipated by the applicant, the proposal could adversely affect these properties.

7.12. The legalities raised by the appellants relate to matters that either lie within the realm of Planning Authority validation, or they would be susceptible to negotiation between adjoining land owners, or they could be addressed by means of a redesign exercise. Accordingly, I conclude that there is no legal impediment to the Board proceeding to assess and determine the current application/appeal in the normal manner.

(ii) Land use

7.13. Under the CDP, the site lies within the City Centre Commercial Core Area, wherein the Zoning Objective (Z02) states, “To support the retention and expansion of a wide range of commercial, cultural, leisure and residential uses in the commercial core area (apart from comparison retail uses).” Furthermore, under the CDP’s chapter on Arts, Cultural Heritage and Tourism, Objective 8.11(a) states “To encourage a broader range of visitor accommodation in the city and the expansion of the city’s hotel base.”

7.14. The site is in the western half and on the southern side of Fitton Street East. This Street and surrounding streets are composed of retail, commercial, and residential uses. It has been the subject of some redevelopment in recent years but not on the southern side.

7.15. The proposal is for a four-storey building consisting of 192 no. bedspaces of tourism accommodation and a resident’s café. This tourist accommodation use would accord with both of the aforementioned Objectives and so it would raise no, in principle, land use objection.

7.16. Condition 2 attached to the Planning Authority’s draft permission states that “Permission is granted for short stay tourist accommodation only” and it goes onto clarify that “A change to any other form of residential accommodation shall require the benefit of a further grant of planning permission.” I consider that the attachment of a similar condition to any permission that the Board may grant would be prudent, as the type of accommodation proposed would *prima facie* be only suitable for short stay tourists.

7.17. Under the CDP, the proposed use would be appropriate.

(iii) Design

- 7.18. The proposal would entail the construction of a four-storey building on the site. This building would be of contemporary design. The front elevation would align with the front elevations of the appellants' dwelling house to the east and the ESB sub-station to the west. The northern side elevation of the former Scots Church abuts the southern side of Fitton Street East, too. However, this elevation diverges in its alignment from that of this Street. Consequently, the eastern end of this elevation abuts the rear of the sub-station rather than the back of the footpath. Given this context, the northernmost end of the western elevation of the proposed building would protrude above the sub-station and so it would be visible within easterly views along Fitton Street East from its junction with Father Matthew Street (cf. the applicant's 3-D views on drawing no. 16-32-12).
- 7.19. The proposed front elevation would have a glazed "shop front". The entrance lobby would be flush with the level of the adjoining footpath at 2.55m OD. This lobby would be fitted with demountable flood barriers and it would rise via steps and a lift to the finished level of the remainder of the ground floor, which would be 3.5m OD.
- 7.20. The proposed front elevation would incorporate three columns of full floor to ceiling height glazed openings to the upper floors. Each opening would be accompanied by a projecting Juliet balcony of varying depth. The proposed rear elevation would incorporate three columns of full floor to ceiling height glazed openings to the upper floors, too, only these would be contained within projecting features, which would be triangular in plan-view, on south south-western angled planes.
- 7.21. As referred to under the first heading to my report, the proposed western elevation would be recessed centrally to facilitate the provision of a lightwell. The proposed eastern elevation would abut the eastern boundary of the site and it would incorporate an expanse of translucent linear channel glass, which would admit light to the upper floor corridors and, by extension, to the stairs to the building. Under the first heading to my report, I discussed the potential legal issue that the siting of this expanse of glass could raise and I identified a lightwell as a possible means of resolving this issue.
- 7.22. Under the Development Management chapter of the CDP, building height and plot ratio are discussed.

- With respect to the former, building height “should generally respect the area’s existing character and context and should be in accordance with the prevailing hierarchy/character of buildings, save in exceptional circumstances where an increase in building height can be justified on sound urban design or architectural grounds.” During my site visit, I observed that buildings on the northern side of Fitton Street East range from three to six storeys, with a pattern of lower older buildings and higher modern ones. The southern side comprises buildings that are of one, two, and three storeys in height. (The adjoining Keefe and Catherine Streets have cleared sites with surface car parks upon them). The differences in heights between the two sides of the Street can be accounted for by reference to the fact that the northern side has experienced instances of redevelopment, whereas the southern side has not.
- The applicant’s submitted contextual elevations (drawing no. 16-32-05) identifies the heights of the two new buildings on the northern side of the Street, i.e. “Republic of Work” has a parapet height of 18.896m OD and Quay House has a roof/canopy height of 21.4m OD. On the southern side of the Street, the ridge heights of the appellants’ dwelling house would be, variously, 10.838m and 11.375m OD and that of the former Scots Church would be 13.699m OD. The parapet height of the proposed building would be 17.506m OD and so it would exceed the height of the two adjoining buildings on either side, but be less than that of the buildings on the northern side of the Street.
- The appellants express concern over the relationship that would ensue between the former Scots Church, which is identified by the NIAH as being of architectural interest with a regional rating, and the proposed building. During my site visit, I observed that Fitton Street East and Father Matthew Street are narrow Streets with continuous frontage development. Consequently, views are constrained and so public vantage points that would allow views of the said relationship would be limited to easterly vistas from the junction between these two Streets, vistas which would include within them the aforementioned buildings known as the “Republic of Work” and Quay House.
- To the east, views of the eastern side elevation of the proposed building would be available from Catherine Street and Keefe Street, due to the existence of surface car parks on cleared sites along these Streets. Within

these views, the said elevation would appear as a significant feature. The applicant has proposed the aforementioned translucent linear channel glass as a means of relieving the mass of this elevation. Such relief would be heightened by any replacement lightwell, as discussed above. I anticipate that these views may not endure indefinitely as with the redevelopment of the said car parks they would be likely to be negated.

- 7.23. With respect to the latter, indicative plot ratios for the city centre range between 1.5 and 2.5. The proposal would exhibit a plot ratio in excess of this range, i.e. 2.96. The appellants contend that, given the sensitive context of the site, there are no grounds for a relaxation. By contrast, the applicant points to recent permissions for the redevelopment of hotel sites that would exceed this range, to a greater degree.
- 7.24. I note that the 12-bed rooms on each of the upper floors, which would be sited centrally within the building, would, as the largest type of bedroom, be served by only one window onto the proposed western lightwell. Their amenity would thus be limited. I note, too, that if these rooms were omitted from each of the upper floors and the stairs, lift, and accompanying corridors were re-sited centrally within the building, then a lightwell could be provided on the eastern side of the building, which would facilitate lighting to these circulation spaces and provide the opportunity to provide improved lighting and ventilation to the proposed bedrooms in the north-eastern and the south-eastern corners of the building. The omitted rooms and their en-suites each have a floorspace of 42.42 sqm. Their combined floorspace of 127.26 sqm would reduce the overall floorspace of the building to 1176.64 sqm and so the plot ratio would ease to 2.67. The number of bedspaces would fall by 36 from 192 to 156.
- 7.25. The aforementioned re-siting of circulation spaces would have a significant knock-on effect upon the proposed layout of the ground floor. Thus, the continuous open floorspace of the proposed café would need to be reworked. Nevertheless, the introduction of greater natural light into this floor would present an opportunity to enhance the amenity afforded by it. As proposed, the ground floor would be capable of accommodating 14 cycle spaces. This level of provision should be maintained under any redesign.

- 7.26. Under further information, the applicant submitted an Archaeological Impact Assessment and Building Survey. This document identifies some older stonework and brickwork within the walls of the existing building on the site. The applicant has undertaken to re-use this stonework internally to clad the wall to the western side of the proposed resident's café. Elsewhere, new stonework would be used at ground floor level to clad the exposed eastern elevation and smooth white render would be used as the finishing material to the remainder of this and the other external elevations
- 7.27. I conclude that the design of the proposal would be appropriate, save for the need to ensure that lighting to upper floor circulation spaces and certain bedrooms is, variously, safeguarded and improved. These twin objectives would be capable of being achieved by the introduction of a lightwell in the eastern portion of the building. As a consequence, the centrally placed bedrooms would be omitted and the circulation spaces re-sited into the space thus vacated. The plot ratio for the proposal would improve thereby, too.

(iv) Amenity

- 7.28. The appellants express concern that their amenity would be adversely affected by the proposal. Specifically, they have identified in submitted plans a series of windows and rooflights in the southern elevation to their dwelling house and a small yard below a lightwell, which would experience a loss of direct sunlight and overshadowing. They also express concern that the proposed use, as tourist accommodation, would lead to noise and disturbance, especially during anti-social hours.
- 7.29. With respect to the former concern, the applicant draws attention to the existing 4.92m high wall that bounds the western side of the said lightwell and to the urban location of Fitton Street East, wherein suburban standards of amenity cannot reasonably be expected.
- 7.30. During my site visit, I observed both internally and externally the aforementioned yard and openings. Under the proposal, the height of the eastern elevation to parapet level would be 14.956m. Thus, the lighting of this yard and these openings would be significantly affected in the afternoon and evening. While I acknowledge that the Street in question is an urban one within an area that could be expected to

undergo further redevelopment, I acknowledge, too, the significance of the loss of amenity that would ensue to the appellants, whose dwelling house is laid out to ensure that rooms in day time use are next to the southern elevation. In these circumstances, the introduction of an eastern lightwell to the proposal, as discussed under the third heading of my assessment, would ease to some degree the loss of light and it would ease, too, the heightened sense of enclosure that would result from the proposed eastern elevation.

- 7.31. With respect to the latter concern, under further information, the applicant confirmed the hours of opening that would apply to the proposed tourist accommodation, i.e. 07.00 to 23.00 daily, and the presence of a night porter to enable patrons to gain access outside these hours.
- 7.32. I note that noise and disturbance during anti-social hours are issues that hinge on the management of the proposed tourist accommodation and wider factors, all of which lie beyond the planning system to promote and regulate. That said, the reduction in bedspaces envisaged under the third heading of my assessment would, presumably, make it easier, *ceteris paribus*, to manage this tourist accommodation.
- 7.33. I conclude that the impact of the proposal upon the amenities of the appellants' dwelling house would be eased if the lightwell described under the third heading of my assessment were to be introduced to the proposal.

(v) Water

- 7.34. The applicant has submitted an Infrastructure Planning Report, which confirms that, as an existing developed city centre site, it is fully serviced with respect to the public water mains and the public foul and surface water sewerage system.
- 7.35. The applicant has submitted a Flood Risk Assessment (FRA) of the site. The River Lee passes within c. 100m of the site, at a point where this River is susceptible to fluvial and tidal flooding. That said there is no documentary evidence that the site itself has been flooded in the past.
- 7.36. The FRA refers to the Lee CFRAMS, which shows that part of the site lies within the predicted extent of a 1 in 100 year fluvial flood event and the whole of the site lies within the predicted extent of 1 in 200 year fluvial and tidal flood events. Accordingly, under the Planning System and Flood Risk Management Guidelines (PSFRM), the site lies within Flood Zone A.

- 7.37. Under the PSFRM Guidelines, the applicant classifies the proposed tourist accommodation use as “Land and buildings used for holiday or short-let caravans and camping, subject to specific warning and evacuation plans.” As such, under Table 3.1, it would be “less vulnerable development”. However, I note that the character of this use would be more akin to that of a hostel, a use which is classified as a “highly vulnerable development”. In either case, under Table 3.2, the Justification Test needs to be run for sites in Flood Zone A.
- 7.38. The applicant’s FRA engages with Box 5.1 of the PSFRM Guidelines, which sets out the criteria for the Justification Test. He has, accordingly, stated that the site is zoned for the proposed use in the current CDP and, as the proposal would entail the redevelopment of an existing site which presently accommodates a building that covers its entirety, there would be effectively no change to flood risk elsewhere and measures would be incorporated in the design of the new building to mitigate the risk of flooding to it, e.g. demountable flood barriers at the entrance, a raised ground floor level, and the specification of a robust form of construction to a level of 3.9m OD. An emergency plan would also be prepared. The applicant concludes that, on the basis of the said mitigation measures, the proposal would pass the Justification Test. I concur with this conclusion.
- 7.39. I conclude that the proposal would be capable of being satisfactorily serviced and that the flood risk, which the site is exposed to, would be capable of being satisfactorily mitigated.

(vi) AA

- 7.40. The site is not in a Natura 2000 site and the nearest such sites are the Cork Harbour SPA (site code 004030) and Great Island Channel SAC (site code 001058). This site is a fully serviced, developed, urban one and so I do not consider that its redevelopment as proposed would be likely to have any significant effects on the Conservation Objectives of these Natura 2000 sites or any other Natura 2000 sites.
- 7.41. Having regard to the nature and scale of the proposal, the nature of the receiving environment, and the proximity of the nearest European sites, no Appropriate Assessment issues arise and it is not considered that the proposal would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

8.0 Recommendation

That permission be granted.

9.0 Reasons and Considerations

Having regard to the Cork City Development Plan 2015 – 2021, it is considered that, subject to conditions, the proposal would be an appropriate land use under the Zoning Objective for the site. Within the context of the host Street, the height and design of the front elevation of the proposal would be compatible with existing visual amenities. Provided a lightwell is introduced centrally to the eastern side elevation of the proposal, this elevation would be compatible with the visual and residential amenities of the area. The additional light afforded thereby would also improve the amenity of the proposed building. The proposal would be capable of being satisfactorily serviced and flood mitigation measures would, likewise, be satisfactory. No Appropriate Assessment issues would arise. The proposal would thus accord with the proper planning and sustainable development of the area.

10.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars submitted on the 6th & 13th days 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 proposed development shall be amended as follows:
 - (a) The centrally sited 12 bedspace room in each of the three upper floors shall be omitted.
 - (b) The lift, stairs, and corridors sited centrally on the eastern side of each of the three upper floors shall be re-sited in the space vacated by the omission of the aforementioned 12 bedspace rooms.

- (c) The space thus vacated by the lift, stairs, and corridors on the three upper floors shall fulfil the role of a lightwell, with glazed openings in each of its three sides and, as appropriate, a skylight above the ground floor.
- (d) All consequential changes of the above interventions shall be made explicit. The changes to the ground floor shall continue to maintain the provision of storage for a minimum of 14 bicycles.

Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interests of visual and residential amenity and in order to afford a satisfactory standard of amenity to the building.

3. 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.

4. Prior to the installation of signage, details of the same shall be submitted to and agreed in writing with the Planning Authority and, thereafter, only the agreed upon signage shall be installed.

Reason: In order to afford the Planning Authority the opportunity to control signage in the interest of visual amenity.

5. Details of the materials, colours and textures of all the external finishes to the proposed 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.

6. 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.

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

Reason: In the interest of sustainable waste management.

8. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including hours of working, noise management measures and off-site disposal of construction/demolition waste.

Reason: In the interests of public safety and residential amenity.

9. Site development and building works shall be carried out only between the hours of 0800 to 1900 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. 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, in particular, 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.

11. Public lighting shall be provided in accordance with a scheme, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Such lighting shall be provided prior to the commencement of the proposed use of the building.

Reason: In the interests of amenity and public safety.

12. Permission is hereby granted for the use of the building for short stay tourist accommodation only. Any change of use of this building to any other use, including any other use within Class 6 of Part 4 of Schedule 2 to Article 10 of the Planning and Development Regulations, 2001 – 2017, shall be required to be the subject of a further planning permission.

Reason: In order to afford the Planning Authority the opportunity to control the use of the building in the interest of the proper planning and sustainable development of the area.

13. Permission is hereby granted for a café, which shall only be used on an ancillary basis to the tourist accommodation use of the building. Any change in the use of this café, including any change that would entail it being open to the public as distinct from patrons of the tourist accommodation building only, shall be required to be the subject of a further planning permission.

Reason: In order to afford the Planning Authority the opportunity to control the use of the building in the interest of the proper planning and sustainable development of the area.

14. Prior to the commencement of the tourist accommodation use, an emergency plan for the building in the event of flooding shall be submitted to the Planning Authority.

Reason: In the interest of public safety.

15. The tourist accommodation use shall operate in accordance with the details provided by the applicant in his response of 6th December 2017 to the sixth

item in the Planning Authority's request for further information.

Reason: In the interest of the residential amenities of the area.

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 made under section 48 of the Act be applied to the permission.

17. The developer shall pay to the planning authority a financial contribution in respect of the Cork Suburban Rail Project in accordance with the terms of the Supplementary Development Contribution Scheme made by the planning authority under section 49 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

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

Hugh D. Morrison
Planning Inspector

10th July 2018