



An
Bord
Pleanála

Inspector's Report ABP-301416-18

Development	Demolition of the existing 3 storey building and construction of 218 no. bedroom hotel.
Location	Twilfit House, 137-140 Abbey Street Upper, 57-60 Jervis Street and 1-4 Wolfe Tone Street, Dublin 1.
Planning Authority	Dublin City Council North
Planning Authority Reg. Ref.	4110/17
Applicant(s)	Abarta Investments Plc
Type of Application	Permission
Planning Authority Decision	
Type of Appeal	Third Party
Appellant(s)	Ciaran Flynn
Observer(s)	Pat Coyne, TII
Date of Site Inspection	25/10/11
Inspector	John Desmond

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1.0 Site Location and Description

1.1. The application relates to a site of 0.127ha located in Dublin city centre, north of the Liffey and a short distance south of Henry Street / Mary Street. The site is bounded by Abbey Street Upper to the south, Jervis Street to the east, Wolfe Tone Street to the west and Wolfe Tone Park to the north. The site contains a three-storey, brick building dating from the interwar period. It is currently in use as a gym and a tourist museum (the National Leprechaun Museum). The Luas line runs along Abbey Street Upper adjacent the south of the site.

2.0 Proposed Development

2.1. Summary description

- Demolition of existing 3-storey building;
- Erection of 8-storey over basement building of 9,205-sq.m GFA (inclusive of 1,207-sq.m basement), to accommodate – 218no. bedroom hotel with ancillary bar/restaurant facilities, at ground to 6th floor level; and gym studio at basement level and part ground floor level, with entrance and associated juice bar (total c.158-sq.m) at ground.

2.1.1. Supporting documentation

- *Cover letter* prepared by Virtus
- *Planning Support Statement* prepared by Virtus
- *Architect's Design Rationale* prepared by The O'Toole Partnership Architects
- *Architectural Heritage Assessment of the Relocated Collection of Gravestones* prepared by David Slattery
- *Assessment of Condition of Grave Slabs* prepared by Dr Jason Bolton
- *Archaeological Impact Assessment* prepared by Aisling Collins (archaeological testing license 17E0307)

- *Justification for Demolition of Existing Building known as Twilfit House* prepared by Virtus Project Management
- *Photomontages & CGIs* prepared by 3D Design Bureau
- *Landscape & Visual Impact Assessment* prepared by Kennett Consulting
- *Sunlight/Shadow Analysis for Wolfe Tone Park* prepared by Integrated Environmental Solutions
- *Noise Impact Assessment* prepared by Byrne Environmental
- *Façade Access Strategy – North Side* prepared by Altura Engineering Ltd
- *Outline Method Statement for Demolition* prepared by Waterman Moylan CE Ltd
- *Outline Construction and Waste Management Plan* prepared by Waterman Moylan CE Ltd
- *Operational Waste Management Plan* prepared by Byrne Environmental
- *Flood Risk Assessment* prepared by Waterman Moylan CE Ltd
- *Engineering Assessment Report* prepared by Waterman Moylan CE Ltd
- *Delivery Services Management Plan* prepared by Waterman Moylan CE Ltd
- *Planning Stage Mechanical and Electrical Sustainability Statement* prepared by Baker O'Reilly CE Ltd
- *Ecological Impact Statement* prepared by Openfield Ecological Services
- *Screening Report for Appropriate Assessment* prepared by Openfield Ecological Services

2.2. Further information

- Reduction of height to 7-storeys (omission of 1no. storey) of 23.4-sq.m to parapet;
- Relocation of footprint of building away from northern boundary with Wolfe Tone Park, with consequential internal rearrangement and remodelling of top floor façade;
- Reduction in bedrooms to 180no. (omission of 38no.);

- Gym /retail unit, plus gym access, at ground floor level (c.120-sq.m);
- Total floor area reduced to 7,547-sq.m (reduction of 1,658-sq.m).

2.2.1. Supporting documentation

- *Cover letter* prepared by Virtus
- *Architect's Design Rationale* prepared by The O'Toole Partnership Architects
- *Photomontages & CGIs* prepared by 3D Design Bureau
- *Sunlight/Shadow Analysis* prepared by Integrated Environmental Solutions
- *Landscape & Visual Impact Assessment – Addendum* prepared by Kennett Consulting
- *Response to RFI [concerning possible impact of works on operation of Luas]* prepared by Waterman Moylan CE Ltd
- *Updated Outline Construction and Waste Management Plan* prepared by Waterman Moylan CE Ltd

3.0 Planning Authority Decision

3.1. Decision

To **GRANT** permission subject to 20no. conditions. The following conditions are of note:

No.3 – S.49 supplementary development contribution €217,880.38 for Luas Cross City.

No.4 – Bond for securing satisfactory completion infrastructure / services.

No.5 – agree details of boundary treatment to Wolfe Tone Park.

No.6 – submit details of more lightweight, high quality material to be used for top floor for agreement.

No.7 – Agree the delineation between gym and retail unit. Requires all signage to the units to be subject of a separate application.

No.8 – All external finishes to building and public realm to be submitted for agreement.

No.9 – Ground floor bar / restaurant to be generally accessible to the public during normal opening hours.

No.10 – No signage to be erected without a prior grant of permission.

No.12 – Roads condition including, inter alia, (a) agree details of extended loading bay and alterations to road network.

No.13 – Archaeological condition including detailed archaeological monitoring requirements and, inter alia, treatment of existing burials and grave slabs (b, c, e, f, g and h) including (h) that the proposed development to be setback from the graveyard boundary, a full record of Twilfit house prior to demolition, and also required the foundation layout to be agreed with the City Archaeologist.

No.14 – Extensive drainage and water supply condition.

No.15 – Extensive construction and demolition waste condition.

No.16 – Extensive operational waste condition.

No.19 – Scheme for effective control of fumes / odours to be submitted and *approved* in writing prior to first occupation.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The detailed **first report (14/12/17)** is consistent with the decision of the planning authority to seek further information requesting the applicant to re-examine the height and scale of the proposed development and to submit further details in relation to possible impact of construction works on Luas operations. The assessment considered policy context in terms of hotel use, building height, public realm and interaction with Wolfe Tone Park (noting recent LAW application for landscaping of same), retail core, architectural heritage (Twilfit House), design issues including issue of height and potential overbearing, and potential traffic impact (on Luas).

The **final report (16/03/18)** noted that the Transportation Division was satisfied with the applicant's response and had no objection subject to conditions. Regarding the design amendment, the report noted, inter alia, the increased setback from Wolfe Tone Park to 3.5m; the reduction of the building by one floor level and consequential internal rearrangements including reduction in bedrooms to 180no.; the splayed elevation to Wolfe Tone Park to increase the footpath opening onto the park; the provision of a retail unit is in line with the zoning objective, indicating that there was none proposed initially, and gym at street level to Upper Abbey Street but that the delineation between the two uses would need to be agreed by condition; that a previous permission (reg.ref.5618/04) allowed for the demolition of the existing NIAH listed building; and precedent for a 7-storey building on the site under said previous permission. The assessment seems to accept that the level of increase in overshadowing of Wolfe Tone Park would not be significant; that the visual impact is acceptable but that the additional roof element may need to be finished in an alternative material to avoid adversely impacting on the setting of St Mary's Church which can be addressed by condition, as should the materials of the proposed building generally; there is concern regarding cantilevering of the building over footpath at Wolfe Tone Street by c.3.5m but that due to the design raising the height of the area below as the depth of the projection increases, and would not project beyond the site boundary, would increase the public footpath and maintain views through to the park, it is considered acceptable. The recommendation to grant subject to 20no. conditions is consistent with the planning authority's decision and the conditions attaching thereto.

3.2.2. Other Technical Reports

Roads & Traffic Division (first report 04/12/17) – No objection in principle, subject to submission, following liaison with TII, of a revised demolition method statement to address Luas requirements; revised outline waste management and construction management plan to be agreed with TII prior to submission; and details of OCS building fixings' relocation and replacement.

Also notes that Part 8 planning permission granted to DCC Parks Department to renovate Wolfe Tone Park and WT Street (Reg.Ref.4144/16).

Roads & Traffic Division (final report 14/03/18) – No objection subject to 7no. conditions. Of note, condition no.1 requires exact details of propose extended loading bay to Wolfe Tone Street and any other alterations to the road network to be agreed in writing with DCC and be at the applicant's expense; to liaise with TII and/or Luas operator to ascertain any requirements and to comply with Code of Practice for Working on, near or adjacent to the Luas tram system.

Drainage Division (28/11/17) – No objection subject to standard (but extensive) drainage conditions.

City Archaeologist (13/06/17 [sic] – the date precedes the date of application lodgement) – The report raises concern over the impact on the preservation of grave stones and the impact upon human burials within Wolfe Tone Park, a deconsecrated graveyard to the north, and considered that the stones should be reinstated along the northern boundary of the graveyard in a more suitable manner to the current setting with regards to preservation and presentation. The proposal to fully bury the gravestones within the yard is not feasible, is at odds with the archaeological testing, a significant heritage loss and inappropriate to the presentation of the site and the preferred option is that suitable slabs be conserved and selected for reinstatement in the slot trench identified by Ms Collins (in the Archaeological testing of July 2017) or as determined by DCC. The location of the proposed development will constantly overshadow the current location of the gravestones, with lack of sunlight being noted (in Dr Bolton's report) as one of the direct causes of deterioration of the slabs as it allows greenish algal bio-film to grow.

The scale of the proposed development (CGI views 2 and 3) is out of proportion with and negative impacts on the visual amenity of St Mary's Church and Graveyard RMP and the height and footprint should be reduced and setback from the park as a buffer, with the 125no. grave slabs re-aligned along the site boundary in a new treatment within the park.

All demolition works should be archaeologically monitored and, prior to construction, archaeological testing should be carried out as per method statement agreed by the City Archaeologist.

No objection subject to detailed archaeological condition including requirements concerning detailed archaeological monitoring and, inter alia, treatment of existing

burials and grave slabs (b, c, e, f, g and h) including (h) that the proposed development to be setback from the graveyard boundary, a full record of Twilfit house prior to demolition, and required that the foundation layout be agreed with the City Archaeologist.

3.3. Prescribed Bodies

TII (first report 24/11/17) – Impact of OCS fixings attached to the structure and potential adverse impact on Luas operation and safety. The submitted outline demolition method statement and WMCP do not adequately address the impacts on safe, efficient operation of Luas during construction. FI required:

(1) revised outline demolition method statement to address risk assessment for works associated with interfaces to Luas alignment and relevant mitigation; method statement to demonstrate resolution of all Luas operational issues; and revised outline waste management and construction plan to include risk assessment for all interfaces with Luas alignment and resolution of same; provision for temporary OCS during demolition and construction and provision of permanent OCS fixings onto new building; to be subject of formal agreement to be agreed with TII;

(2) Design to ensure no risk of intrusion of people into OCS danger zone via opening windows, etc. Details required.

(3) Plans and details to ensure safety interface with Luas prior to planning decision. Specified design issues to be addressed.

(4) Plans and details of interface between Luas and hard landscaping to public realm prior to planning decision.

S.49 levy to apply for Luas Cross City and works permit required from Luas Operator.

TII (final report 27/02/18) – TII is agreeable to the FI response submitted in respect of item no.1 of its initial report, subject to submission of the details required under items nos.2-4 of TII's initial report, which are still outstanding.

Failte Ireland (21/11/17) – Delivery new hotel accommodation is essential as hotel occupancy rates are in excess of 94%, with the acute shortage of hotel bedrooms

posing a major threat to future tourism as demand far exceeds supply and leads to inflated prices. Supports the development from a tourism perspective.

An Taisce (23/11/17) – Not satisfied that the **demolition** of Twilfit House is justified; in this regard s.16.10.17 (re-use of older buildings), policy CHC1 (preservation of built heritage) and s.16.2.1.2 (minimise waste through re-use of buildings) of the CDP 2016-2022 are relevant. **Height** at the 28m limit but should relate to local height (s.16.7.2 of CDP refers) limited to 5/6 storeys. It is monolithic, bulky and out of proportion. Architectural design expresses **2-storeys as one**, creating image of four giant storeys, out of character and without a design rationale (policies SC28 and CHC2 refer). **Oversaturation** of hotel uses.

3.4. Third Party Observations

Four letters of observation were received to the application from Ciaran Flynn (of no.16 Jervis Park Apartments, Jervis St); Ben Dunne (of Castleknock, D15) c/o DPPM; and two separate submissions from Pat Coyne (of 7 Arran St East, Mary's Abbey). The main issues raised may be summarised as follow:

- Shadow impact on Wolfe Tone Park; no tangible improvement as part of the proposed intensity of use of the site; 8-storey building tight to the park boundary would be detrimental to this historic public amenity; central north façade to be brought forward by 9m, imposing on the park; out of character with buildings surrounding the park; boundary to park unclear; public consultation in 2017 found, inter alia, 83% of respondents wanted a return to the pre-2001 traditional park and garden grass
- Architectural heritage value of existing building as Irish modernist architecture, built 1927, unique in its context and which should be retained; the Conservation Consultant's analysis is not impartial but prejudiced and is in disagreement with the NIAH record (reg.no.50010573); S.6.10.17 of the CDP concerning re-use of older buildings apply; treatment of existing gravestones unclear;
- Overdevelopment – the existing building has a plot ratio of 2.4 compared to the range of 2.5 to 3.0 under the CDP for Z5 lands and better accords with policy standards than that proposed; the proposed 6.0 plot ratio is not justified as the proposed commercial hotel does not accord with any of the criteria to a sufficient

degree, does not deliver much needed residential accommodation and is not strategic in nature;

- Replacement building is unsympathetic; no setback of upper stories to allow light to enter park;
- Building of singular architectural quality required for site of this civic prominence
- Provision of two new licensed premises on the site, increasing footfall and anti-social behaviour – there is no enforcement of S.9 of the DCC (Prohibition of consumption of intoxicating liquor on roads and in public places) Bye-Laws 2008 by the Garda in the city centre
- Clarify if basement is to be used for car parking; insufficient cycle parking
- Invalid application by reason of obscured and illegible site notice
- Traffic issues - the surrounding street network is grossly inadequate to cater for the proposed development; how would guests access the development?; taxi pick-up / drop off; the delivery services management plan is not credible;
- Impact on residential amenities of residents living along the park; noise of rooftop plant; loss of light not addressed in Sunlight/Shadow Analysis for surrounding dwellings within 12m

4.0 Relevant Planning History

On site

Reg.Ref.5618/04: Permission **GRANTED** for demolition of existing building and erection 7-storey over-basement office building, with double-height retail and café at ground floor level, to a height of 27.95m (excluding screened plant above) to south, stepping down to the north (to 21.65m, 18.05m 14.45m and 13.52m) towards the park, with 6,810-sq.m GFA initially proposed.

Within the vicinity of the site

Reg.Ref.4144/16: Approved local authority works to renovate Wolfe Tone Park and Wolfe Tone Street including new lawn area, a raised planted area along the western side of the park, public seating, tree and ground cover planting and a bio-swale on

the eastern side of the park; change of surface treatment along Wolfe Tone Street and narrowing of the road space; reconfiguration of the headstones, appropriate interpretation as well as accent lighting.

5.0 Policy Context

5.1. Development Plan

5.1.1. Dublin City Development Plan 2016-2022

Land use zoning objective Z5 City Centre *‘to consolidate and facilitate the development of the central area and to identify, reinforce, strengthen and protect its civic design character and dignity’*.

Hotel, shops, public house, restaurant, recreational use (including gym use) are permitted in principle within the Z5 zone.

Land use zoning objective Z9 Amenity/Open Space Lands/Green Network *‘to preserve, provide and improve recreational amenity and open space and green networks’*.

Other objectives: Zone of Archaeological Interest for Dublin City (RMP DU018-020); Architectural Conservation Area for Capel Street abutting Jervis Lane Lower to the west; Henry Street Conservation Area (encompassing St Mary’s Church abutting north side of Wolfe Tone Park); Protected Structures (to north, west and east of Wolfe Tone Park, and southeast of Abbey Street / Jervis St junction).

Chapter 6 Enterprise – Policy CEE12 (i) *‘To promote and facilitate tourism as one of the key economic pillars of the city’s economy ... and to support the provision of necessary increase in facilities such as hotels ... cafes, and restaurants’* CEE18(v)

Chapter 10 Green Infrastructure, Open Space and Recreation – Objective GIO13 *‘To implement Conservation Plans for ... Wolfe Tone Park’*.

Chapter 11 Built Heritage and Culture – Policy CHC1 (preservation of built heritage);

S.11.1.5.14 Monument Protection. Policy CHC9 *‘To protect and preserve National Monuments (1-8). 1. To protect archaeological material in situ by ensuring that only minimal impact on archaeological layers is allowed, by way of the re-use of buildings,*

light buildings, foundation design or the omission of basements in Zones of Archaeological Interest.'

Chapter 16 Development Standards: Design, Layout, Mix of Uses and Sustainable Design - s.16.2.1 Design Principles; s.16.2.1.2 Sustainable Design; s.16.3.4 concerning open space; s.16.5 Plot Ratio (Z5 2.5-3.0, but higher may be permitted in certain circumstances); s.16.5 Site Coverage; s.16.7.2 Height Limits and Areas for Low-Rise, Mid-Rise and Taller Development; s.16.39 Cycle Parking.

Volume 7 Flood Risk Assessment – Appendix 7: Justification Test Tables – Site 4 Liffey: Sean Heuston Bridge – O'Connell Bridge.

5.2. Natural Heritage Designations

South Dublin Bay and River Tolka Estuary SPA Site 004024 c.2.8km at the nearest distance (to NE).

North Bull Island SPA Site 004006 c.5.7km at nearest distance (to E-NE).

North Dublin Bay SAC Site 000206 c.5.7km at nearest distance (to E-NE).

South Dublin Bay SAC Site 000210 c.3.8km at the nearest distance (to SE).

Poulaphouca Reservoir SPA site code 004063 c.24km at nearest distance (to SE).

6.0 The Appeal

6.1. Grounds of Appeal

The grounds of the third-party appeal by Ciaran Flynn (of Jervis Park Apartment) may be summarised as follow:

- Negative impact on Wolfe Tone Park.
- Boundary to park - condition no.5, relating to the determination of the details of the boundary with the park, is a process inaccessible to the public for review or appeal.
- Overshadowing - no condition attached to mitigate impact on the park of shadow cast.

- Access and use of park - the CGIs suggest the park as a thoroughfare to the new building as opposed to a public amenity space.
- Importance of the park as an amenity within D1 - there is a distinct lack of public green space in the whole of Dublin 1.
- Questioned the bona fides of the planning authority - difficult to accept that an organisation [DCC] that has done immense damage to the park and actively opposes a 12-year popular community restoration effort, would possibly consider what is best for this scarce public amenity in granting permission for a commercial development.
- Impact on residential amenities - impacts on residential apartments with opposing windows within 12m appear to have been overlooked by the planning authority.

Note – the observation to the application, including photographic survey, are appended to this appeal.

6.2. Applicant Response

The main points of the applicant's response to the four points of the appeal may be summarised as follow:

Negative imposition on public facility that it Wolfe Tone Park.

- The appellant repeatedly refers to the proposed development as an 8-storey building, not recognising that the scheme was amended at further information stage to 7-storeys, inter alia other amendments, with materially different impacts and the grounds of the appeal are therefore invalid.
- The Board has the power to dismiss this appeal, which is without substance, under s.38 of the Planning and Development Act of 2000, as amended.
- The 7-storey building is not out of context with the park and surroundings, with a height of 23.4m to parapet within an area where 28m is the maximum allowable height under the Development Plan.
- The building height, scale and massing are entirely appropriate to the area.

- Fig.1 (s.4.15 of the appeal response document) shows existing building heights, with the Jervis Street centre to the east of the Park being taller (28.7m to 31.4m).
- Key design challenge was to create a development which interacts with and improves the park, in contrast with the existing building which turns its back to the park.
- Development needs to maximise city centre location on a brownfield site adjacent a high quality public transport link and improve the relationship with the park.
- Proposes to splay the building facade along Jervis Street and increase footpath opening onto the park in plan and section, creating exaggerated perspective.
- Buffer zone provided between building and park.
- Site specific response resulting in a dynamic contemporary form that compliments and enhances the existing urban form.
- The CGIs and Landscape and Visual Impact Assessment concluded that the proposed scheme would make a positive contribution to the city's built environment in accordance with CDP policies SC5, SC25, SC7, SC28, CHC2 and CHC4.
- Positive contribution to the park including passive surveillance.
- The applicant does not explain what negative impact arises from the proposed development being brought closer to the park than the existing building.

Development is to be brought closer to the park than the existing building

- Appellant fails to acknowledge current unwelcoming condition along the boundary, with tall, blank wall, with fencing above.
- Desperate need for active frontage along all boundaries of the park.
- The existing building currently sits long 40% of the park's boundary.
- Key requirement to provide an appropriate link to and relationship with the park.

- In response to the FI requires the proposed building has been set back by 3.5m from the park, further back from boundary than the existing situation.
- The proposed setback accommodates an outdoor seating area. It creates a transition zone, enhancing the public realm, maintaining a strong visual connection to the park and providing activity and passive surveillance along the park's edge.
- The Council's Part 8 proposal (ref.4144/16) for the park provides for active frontage along the southern boundary, making the space more dynamic and welcoming.

No upper floor setback

- There is no requirement for some and none of the surrounding buildings incorporate a setback.
- The rationale for the design has been set out clearly by The O'Toole Partnership Architects, inter alia, as an object sitting in the park grounded at the NW corner with double-height slender vertical stones emerging from the graveyard.
- The issue of setback is also addressed in this response under '*Shadow Impact on Wolfe Tone Park*'.

Boundary between park and proposed development

- The further information submission (1649-FI-501) suggests a proposed design for the hotel-park interface with planting, seating, the separation from the boundary and ground levels, without ambiguity, as requested by DCC's Parks Department during pre-application discussions, but maintaining the visual link for passive surveillance and activity.
- Condition no.5 requires full details of the said boundary treatment to be agreed, which is reasonable and is anticipated to include details such as plant species, construction / specification of rooflight, specific materials, etc.
- This does not mean that the boundary will be decided through a process inaccessible to the public, as the design has been approved as part of the

decision, only the specific details are to be agreed as allowed under s.34(4) of the Act.

- This is further addressed under condition 13(c) and (g) to ensure a harmonious relationship between the hotel seating area and the renovated Wolfe Tone Park, with satisfactory treatment of gravestones currently interred along the boundary wall.

Shadow impact on Wolfe Tone Park

- The daylight and sunlight impact analysis and assessment carried out by IES in line with the BRE guidelines, concluded that:
 - The proposed development reduces the area receiving at least 2 hours sunlight on 21 March, more than 50% of the outdoor space still receives at least 2 hours of sunlight;
 - The proposed scheme causes only a very minor reduction in sunlight access to the Park compared to the existing situation and does not vary dramatically with the change in proposed building height;
 - There is little to no impact on shadow cast by the building in reducing height from 7 to 6 storeys.

Overlooking of residential apartments at Jervis Street

- The proposed hotel building is not directly opposite the apartment building, but opposite the shopping centre, with the relationship with the said building being diagonal and the corner condition to the proposed hotel is a solid element;
- The windows to the existing and proposed buildings address the road, as is standard and is not an overlooking issue;
- The Sunlight/Shadow Analysis for Wolf Tone Park (10/05/18) attached as appendix 3, clearly shows there will be no material impact on daylight access to these properties which will continue to comply with BRE guidance in the proposed scenario.

6.3. Planning Authority Response

None.

6.4. Observations

Transport Infrastructure Ireland (30/04/18)

The main points of the observation may be summarised as follow:

- S.49 Luas Cross City Contribution condition to apply unless exemption applies.
- Development to comply with '*Code of engineering practice for works on, near or adjacent the Luas light rail system*'.
- Works permit from Luas Operator required for works to be carried out in close proximity to Luas Overhead Conductor System, necessitating prior consultation with Transdev.

Pat Coyne (09/05/18)

The main points of the observation may be summarised as follow:

- The proposed development serves to undermine the desire of the majority of inner-city Dubliner's to protect and restore St. Mary's Church and graveyard, a site of historical and cultural importance of our Judeo-Christian heritage and a vital amenity for the local community.
- License bar/restaurant would be a most egregious use of the site, encouraged and protected by conditions nos.9 and 10 (the latter is unenforceable), creating a super pub with the graveyard as its smoking area and, with the invariable grant of a public dance license, drunkards dancing on the graves of dead protestants.
- Provision of green spaces, parks and places of repose contribute enormously to the health and good humour of people (report attached '*Green Spaces for Good*'), compared to the adverse impact of alcohol.
- In conflict with s.16.32 of the CDP 2016-2022.

- The amenity value of the park (referring to its former layout), to where many young children were brought from the surrounding streets and flat complexes, is needed more than ever for families cooped up in small apartments nearby.
- Airbrushes part of the positive legacy left by the protestant Christian people of the parish of St Mary.

6.5. Further Responses

Transport Infrastructure Ireland (05/07/18)

The submission repeats the points made in the submission of 30/04/18, but requests that the details submitted in response to item no.1 of the further information received 20/02/18 are implemented as a condition of the permission.

7.0 Assessment

I consider the main issues arising under this appeal can be addressed under the following headings:

- 7.1 Policy / principle
- 7.2 Heritage issues
- 7.3 Visual impact
- 7.3 Overshadowing
- 7.4 Overlooking
- 7.5 Traffic and transport issues
- 7.6 Environmental Impact Assessment
- 7.7 Appropriate Assessment

7.1. Policy / principle

- 7.1.1. The appeal site is zoned Z5 City Centre where it is the objective '*to consolidate and facilitate the development of the central area and to identify, reinforce, strengthen and protect its civic design character and dignity*' under the Dublin City Development Plan 2016-2022. The proposed uses, comprising an hotel with and ancillary /

integral restaurant / bar and a separate gym with ancillary retail unit, are permitted in principle on Z5 lands.

- 7.1.2. For large-scale development (s.16.2.2), the Council seeks to provide an appropriate mix of uses, with particular emphasis given to new and complementary uses and facilities that expand and improve the existing range of uses and facilities in the area, but no minimum standard is set in this regard. The planning authority considered the proposed uses within the context of the provisions of Chapter 7 of the Plan concerning retailing, including the strategy for strengthening the core retail area, the Council's Retail Strategy, and the policy to promote active uses at street level of the principle shopping streets (Upper Abbey Street and Jervis Street are Category 2 retail streets) and concluded that the proposed uses at street level are active uses that are complementary to retail use, and raised no issue with same. Whilst the activity at ground floor level to Upper Abbey Street has been reduced through the amendments at further information stage, I consider the range and layout of active uses at ground floor level to be reasonable, to be consistent with the provisions of the Plan and to constitute a significant improvement to the current street-frontage activity of the existing building arrangement.
- 7.1.3. I consider condition no.7, which requires the developer to agree delineation of the space gym/retail at ground floor level to be unnecessarily restrictive and, in the event of a grant of permission I would advise that condition 7 be omitted. I also do not consider condition no.9, requiring that the bar/restaurant be generally publicly accessible during normal opening hours, and would question whether such a condition could be or enforced.

7.2. Heritage issues

- 7.2.1. There are architectural and archaeological heritage issues arising in this case. Architectural heritage issues relate to the heritage value of the existing building and the impact on the heritage value of surrounding buildings and sites. Archaeological issues relate to the potential impact on gravestones and human remains on the adjacent site and on possible archaeological remains on the site.
- 7.2.2. The existing building is not a protected structure and is not within an Architectural Conservation Area. The planning authority considered its heritage value in its

assessment, noting that the building is included in the NIAH and is an example of 1920's industrial architecture and can be considered to have some architectural merit and noted the provisions of the Plan in favour of reuse of older building. However, the planning authority accepted the assessment and conclusions of the applicant's report on '*Justification for Demolition of Existing Building known as Twilfit House*', which was informed by, inter alia, David Slattery Conservation Architects, and accepted the demolition of the existing building. Whilst I would consider the existing building to have some architectural and historical value, particularly within the context urban development taking place during the emergence of Ireland as an independent state, I do not consider it to be of such value to warrant its retention. Condition no.13(i) requiring the recording of Twilfit House prior to its demolition is appropriate.

7.2.3. According to David Slattery, Wolfe Tone Park was intended as one of the first urban spaces of the city in the later 17th C, but became transformed into a church graveyard, then an enclosed public park and then restored as an open urban square and is of some interest. The proposed development, as revised by further information submission, would visually dominate the park adjacent to the north. However, I consider the proposed development would be a visual improvement and would contribute positively to the setting of Wolfe Tone Park, whose character has long since been transformed from a leafy graveyard associated with St Mary's Church to the north. Given the separation from St Mary's Church (>70m), and the mixed-era urban context within which that protected structure now finds itself, I do not consider the proposed building would have a negative impact on the setting of the church. Rather, the proposed building will provide a clean, considerably designed edge to the southern edge of the Park, opposing the church to the north, that will be an improvement on the current setting of that building.

7.2.4. There is potential for impacts on heritage relating to the existing gravestones currently located along the party boundary of Wolfe Tone Park and the site, in addition to potential impact on human remains. The applicant submitted two reports with the application: *Assessment of Conditions of Grave Slabs* and *Architectural Heritage Assessment of the Relocated Collection of Gravestones to South End of Wolfe Tone Square* [sic]. The assessment of gravestones condition found significant deterioration of the surfaces, aggravated by their location which may increase the

amount of moisture passing over them and recommends their removal to another location in the park or buried below ground (which is not acceptable to the City Archaeologist) beneath their current location, being the best stone conservation option. I would agree with the Architectural Heritage Assessment that the current arrangement of gravestones don't contribute in any meaningful architectural or historical way to the space, with no apparent logic or order to what is displayed or obscured, and baring no relationship to how they would have originally existed in the graveyard.

- 7.2.5. The Part 8 proposed (approved under reg.ref.4144/16) provides for the relocating of the more significant gravestones away from the southern perimeter shared with the application site, at 90-degrees thereto, to enable them to be appreciated in the round. Condition no.13 attaching to the planning authority's decision provides for the treatment of any disturbed gravestones to be agreed with the planning authority and provides that the developer submit a method statement for removal, storage, analysis, and reinstatement of the c.125no. gravestones along the party boundary to be agreed with the planning authority prior to the commencement of development, but which is to include the presentation of a selection of the gravestones within the existing slot trench along the party boundary. It is not proposed to disturb existing burials in the development and the issue appropriately addressed under condition 13.
- 7.2.6. Condition no.13 sets out the detailed requirements of the City Archaeologist, including archaeological monitoring of demolition works and the carrying out of archaeological testing, as per method statement to be agreed with the planning authority, prior to construction and is generally appropriate with some rewording.
- 7.2.7. Point (h) of that conditions requires the proposed development to be set back from the graveyard boundary an unspecified distance from the graveyard boundary to allow a selection of gravestones to be presented reusing the existing slot trench in this location within the park. The building has been setback from the boundary by c.3.5m at further information stage. In contrast to the existing situation where the existing building forms the boundary to c.40% of the southern boundary to the park, I do not consider it necessary, appropriate or reasonable to setback the development from the application site boundary by way of condition, particularly where the distance has not been specified. The details of the application site boundary are to

be subject of agreement under condition no.5 of the planning authority's decision and I would advise that, in the event of a decision to grant permission by the Board, that a similar condition be attached.

7.3. Visual impact

- 7.3.1. The four elevations of the proposed 7-storey building address the public sphere in an appropriate manner. The scale of the building is appropriate to its streetscape context in terms of scale, height and massing and the immediate visual impact on the adjacent streets and public spaces would be positive, in my opinion, based on the submitted drawings and the Photomontages and CGI report submitted as further information.
- 7.3.2. In terms of the wider visual impact, the amended proposed building is not of such a height and scale that is likely to render it obtrusive on other significant or protected views in the city. The 7-storey building is indicated as being 23.801m to top of its peaked parapet above pavement level, although it would measure slightly higher at 24.2m above ground floor level. The top of the roof-plant screen would reach to 25m. Council's policy on building heights is set out under S.4.5.4.1 *Approach to Taller Buildings* and Policy SC16 (concerning building height) under which it is the policy to protect the intrinsic quality associated with Dublin's fundamentally low-rise character but to recognise the potential and need for taller buildings in a limited number of locations subject to the provisions of a relevant LAP, SDZ or within the designated strategic development regeneration area (SDRA). To that effect, the Plan defines low, medium and high-rise development and identifies areas where increased heights may be appropriate under s.16.7.2. The subject site is located within the inner-city area where only low-rise development is permissible, which '*relates to the prevailing local height context*' but allows for a maximum of 24m for residential and 28m commercial. The proposed 7-storey commercial building, inclusive of rooftop plant, accords with the height limit. The site context, which includes existing buildings of similar scale to Jervis Street (east side of Park), does not warrant a building of reduced height.
- 7.3.3. The proposed finishes comprise stone (main vertical, horizontal and diagonal bands), aluminium façade panels with bronze effect finish (top floor dressing) and glazing, with profiled powder-coated aluminium attenuation screen to rooftop plant. I

consider the proposed finishes to be acceptable. I do not consider it necessary to agree a more lightweight material to the top (6th) floor of the building, as specified in condition no.6. I do not consider it necessary to agree details of the external finishes to the building, in general, as required by condition no.8. I would consider it appropriate to require the proposed rooftop plant screening to be enclosed on all sides by aluminium façade panels with bronze effect finish, matching that of the 6th floor level, to provide for a more consistent and complete building, particularly as viewed from more distant and viewing points. In this regard, rooftop plant screening is invariably presented as of more transparent and lighter appearance in CGIs (including those submitted with this application) than results in fact. In the event of a grant of permission, it would be appropriate to address this issue by way of condition requiring agreement with the planning authority and completion, prior to first occupation of the proposed development.

- 7.3.4. I do not consider it necessary to attach condition no.10 omitting the exemptions relating to advertising signage.

7.4. **Overshadowing**

- 7.4.1. The principle concern is the impact overshadowing of Wolfe Tone Park to the north, that will result from the construction of the proposed development. I have reviewed the *Sunlight / Shadow Analysis for Wolfe Tone Park* submitted as further information and would accept that, although there will be an increase in overshadowing of the Park arising through the proposed development, the level of increase would not be such as to be detrimental to the amenities of that public open space.

7.5. **Overlooking**

- 7.5.1. The existing three storey building has extensive glazing to its southern, western and eastern elevations, facing towards existing opposing buildings on those sides. Although the proposed development will entail the provision of large expanses of glazing on all elevations, in each case the building line is to be setback behind the current building line set by Twilfit House, thereby increasing the separation distance (albeit is marginally) from the opposing street-fronting elevations to 11m to the west, 12m to the south and at least 13m to the east. There is nothing to suggest the

directly opposing elevations are sensitive to overlooking as they comprise offices, a vacant site and boarded up terraced dwelling to the west, a multi-storey carpark and commercial premises to the south, and Jervis Shopping Centre to the east.

7.6. Traffic and transport issues

- 7.6.1. The site is located in the city centre and is well placed to take advantage of sustainable transport, with the Luas line running adjacent the south of the site, numerous bus routes located within the vicinity and access by foot and bicycle to wide range of services and facilities within the city centre. The proposal not to provide any car parking on this site is acceptable and consistent with the standards and policies of the plan concerning same.
- 7.6.2. Bicycle parking is proposed at ground floor level within the hotel, amounting to c.24no. spaces. This is in excess of the 18no. spaces minimum required under the Development Plan. No cycle parking is proposed for the gym which has a demand of 9no. spaces under the Development Plan based on a floor area of c.850-sq.m. It would be feasible to provide basement bicycle parking within the gym. This should be addressed by condition.
- 7.6.3. TII has raised a number of issues concerning the potential impact on the operation of Luas services from the demolition of the existing building and the construction and operation of the proposed development, in addition to the attachment of a S.49 Supplementary DCS levy for Luas Cross City. These issues were raised in the first observation on file by TII but were not addressed by the FI submission to the complete satisfaction of TII. However, in its submission to the appeal TII does not object to the proposed development subject to the attachment of conditions pertaining to the attachment of the S.49 contribution condition unless exempt, compliance with '*Code of engineering practice for works on, near or adjacent the Luas light rail system*', to the necessity for a works permit from the Luas Operator for works carried out in close proximity to Luas Overhead Conductor System which will require prior consultation with Transdev, and implementation of the details submitted at further information stage. In the event of a grant of permission this issue can be satisfactorily be addressed by condition. The implementation of details submitted at further information stage would be covered by standard condition no.1.

7.7. Flood Risk Assessment

- 7.7.1. The Council's Drainage Division raised no objection subject to 13no. conditions in its report of 28/11/17, which were attached as condition no.14 of the planning authority's decision. Point (j) of that condition states:

As per the Dublin City Development Plan 2016-2022 Strategic Flood Risk Assessment Volume 7 Report Appendix 3 Justification Test Table for all basements and underground structures with respect to any human access no underground offices or residential units (whether temporary or permanent) will be allowed and underground toilets and bathrooms will not be allowed.

- 7.7.2. The proposed basement provides hotel staff facilities at basement level, including essential toilets and showers, but no office or residential uses. The drawings do not show toilets and shower facilities for the proposed basement gym, however such facilities will clearly be essential for a gym to operate from the proposed building.
- 7.7.3. The Strategic Flood Risk Assessment for the Development Plan indicates that the site is within flood risk zone A and the justification test indicates that a FRA is required for all basement and underground structures to which human access is proposed. I could find no reference to prohibition on provision of underground toilets or bathrooms at basement level under the said SFRA document. Gym use is a recreational use and therefore is a less vulnerable development and development of that use within flood zone A should be subject to the justification test according to the Flood Risk Management Guidelines (2009).
- 7.7.4. The applicant submitted a FRA with the application. The FRA submits that the site is located within coastal (flood zone B, based on Eastern CFRAM Maps (28/07/16). This is confirmed by the OPW flood maps (www.floodinfo.ie). The site is not within the River Liffey's fluvial flood zone 1:1000 years. The available pluvial flood maps are less clear, however the FRA submits that there is no record of flooding in the immediate area that could have an impact on the site and that there is a low likelihood of flooding from the surrounding areas.
- 7.7.5. The FRA considers the hotel use only, which, according to the guidelines, is a less vulnerable use where specific warning and evacuation plans are in place. In this regard the FRA provides that in the event of a 1:1000 year tidal storm flood barriers

will be installed 24 hours in advance, the hotel will be evacuated and guests provided with alternative accommodation. The FRA does not consider the proposed gym use, which is also a less vulnerable use but may be at greater risk due to its location at basement level. However, the gym use is considered appropriate within flood zone B under the guidelines (table 3.2 matrix of vulnerability versus flood zone under the justification test).

- 7.7.6. I could find nothing in the SFRA for the Development Plan 2016-2022, or in the Development Plan itself, that prohibits toilets or bathroom facilities at basement level, except for an indicative urban design to address residual flood risk under appendix B of the technical appendices to the FRM Guidelines (2009) which indicates basement use as storage only. As the planning decision authorises the gym uses and ancillary hotel facilities at basement level, it would be inappropriate to materially alter the permission by prohibiting provision of essential ancillary facilities by way of a drainage condition, particularly given the details of the applicant's FRA and that available at the OPW's flood maps website. I therefore would advise that condition no.14(j) be omitted.

7.8. Environmental Impact Assessment Screening

- 7.8.1. The proposed development is development of a class under Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended, namely Class 10. Infrastructure projects, (b)(iv) Urban Development. However, at 0.127ha site area, it is significantly subthreshold the 2ha limit provided under that part, and the site is not of particular environmental sensitivity and therefore EIA is not required.

7.9. Appropriate Assessment

- 7.9.1. The applicant submitted with the application a *Screening Report for Appropriate Assessment* and an *Ecological Impact Statement*, both prepared by Pádraic Fogarty, MSC MIEMA, of Openfield Ecological Services. I note the detailed contents of same. The site is not located within a European site. Within 10km there are four European sites:

- South Dublin Bay and River Tolka Estuary SPA Site 004024 c.2.9km at the nearest distance (to NE);

- South Dublin Bay SAC Site 000210 c.4.0km at the nearest distance (to SE);
- North Bull Island SPA Site 004006 c.5.8km at nearest distance (to E-NE);
- and North Dublin Bay SAC Site 000206 c.5.8km at nearest distance (to E-NE);

However, the Screening Report excludes examination of potential impacts on the latter two sites on grounds of no pathway to same from the site. The Screening Report includes consideration of an additional site outside the 10km radius on the basis that the water supply is take from there:

- Poulaphouca Reservoir SPA site code 004063 c.23km (to SE).

7.9.2. The Features of Interest / Qualifying Interests for the three European sites, the status of same, and the Conservation Objectives applicable to each site are set out in pages 8 to 13 of the Screening Report.

7.9.3. The Screening Report provides relevant data for the carrying out of the assessment on pages 13 to 15 of the report and an assessment of significance of effects, including in combination effects, on pages 15 to 17. There is no potential for direct impacts as the proposed development is not located within or directly adjacent to the said European sites and would not entail the removal of resources therefrom. The River Liffey forms the main pathway to convey effects between the proposed development (source) and the said European sites (receptors), potentially through surface water runoff (during construction and operation) and, indirectly, through foul water disposal via Ringsend wastewater treatment plant. In this regard I would not agree with the statement in the applicant's Screening Report that there is no pathway for effects to occur to the North Bull Island SPA or the North Dublin Bay SAC, but I would concur that, given the nature, design and the scale of the proposed development, there would be no potential for significant effects on any of the said European sites.

7.9.4. Stage 1 screening conclusion – It is reasonable to conclude that on the basis of information on the file, which I consider to be adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on European sites - South Dublin Bay and River Tolka Estuary SPA Site 004024 c.2.8km at the

nearest distance (to NE); North Bull Island SPA Site 004006 c.5.7km at nearest distance (to E-NE); South Dublin Bay SAC Site 000210 c.3.8km at the nearest distance (to SE); North Dublin Bay SAC Site 000206 c.5.7km at nearest distance (to E-NE); and Poulaphouca Reservoir SPA site code 004063 c.24km (to SE) - and a Stage 2 Appropriate Assessment (and submission of a NIS) is not required.

8.0 Recommendation

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

9.0 Reasons and Considerations

Having regard to the site location on lands zoned Z5 '*to consolidate and facilitate the development of the central area and to identify, reinforce, strengthen and protect its civic design character and dignity*' and to the relatively low density usage and arrangement of the existing building on site, which is neither a protected structure nor located within a designated Architectural Conservation Area, it is considered that the proposed replacement building, by reason of its design, uses and the provision of active frontage on each elevation, would be in accordance with the policies and objectives of the Dublin City Development Plan 2016-2022, would be consistent with the proper planning and sustainable development of the area and would not seriously injure the amenities of property in the vicinity subject to compliance with the conditions set out below.

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 20th day of February 2018, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the

development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. Full details of the treatment of the boundary between the site and Wolfe Tone Park shall be submitted for the written agreement of the planning authority prior to the commencement of development.

Reason: In the interest of the visual amenity of the Wolfe Tone Park.

3. The rooftop plant screening shall be fully enclosed with aluminium façade panels with bronze effect finish consistent with that proposed at 6th floor level, the details of which shall be agreed with the planning authority.

Reason: In the interest of visual amenity.

4. Details of materials, colours and textures of all external paving shall be submitted for the agreement of the planning authority prior to the commencement of development.

Reason: In the interest of visual amenity and provision of appropriate pavement surfaces.

5. The developer shall comply with the codes of practice from Dublin City Council's Drainage Division, the Roads, Streets and Traffic Department and the Noise and Air Pollution Section.

Reason: To ensure a satisfactory standard of development.

6. Water supply and drainage arrangements, including the attenuation and 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. The developer shall comply with the following roads and traffic requirements:

- a) Prior to commencement of development exact details of the proposed extended loading bay on Wolfe Tone Street shall be agreed in writing with the planning authority and Dublin City Council

Traffic Management and Control section. The provision of the extended loading bay if required and any other proposed alterations to the road network shall be to the requirements of the planning authority and at the applicant's expense.

- b) Prior to commencement of development the applicant shall liaise with the TII (Transport Infrastructure Ireland) and/or the Luas operator to ascertain any requirements. The development shall comply with the *Code of Practice for Working On, Near or Adjacent to the Luas tram System*.
- c) Prior to commencement of development, and on appointment of a contractor, a detailed Construction Management Plan and Traffic Management Plan shall be submitted to the planning authority for written agreement. This plan shall provide details of intended construction practice for the development, including traffic management, hours of working, noise management measures and off-site disposal of construction/demolition waste. The applicant shall liaise with Dublin City Council Environment and Transportation Department and Transport Infrastructure Ireland (TII) during the construction period.
- d) In addition to the cycle parking at ground floor level for the hotel use, the developer shall provide 9no., secure, conveniently located, sheltered and well lit cycle parking spaces readily accessible to patrons and staff of the gym facility, the location of which shall be subject to the written agreement of the planning authority prior to first occupation of the development.
- e) Details of the materials proposed in public areas is required and should be in accordance with the document Construction Standards for Roads and Street Works in Dublin City Council and agreed in detail with the Road Maintenance Division.
- f) All costs incurred by Dublin City Council, including any repairs to the public road and services necessary as a result of the development,

shall be at the expense of the developer.

Reason: To ensure a satisfactory standard of development and to ensure that suitable cycle parking is provided to the standard required by the Dublin City Development Plan 2016-2022.

8. The developer shall comply with the following archaeological requirements:
- a) No construction or site preparation work shall be carried out on the site until all archaeological requirements of the planning authority and City Archaeologist are complied with.
 - b) In situ burials shall not be disturbed in the course of this development except in exceptional circumstances and with the prior agreement of the planning authority and City Archaeologist.
 - c) Any grave slabs to be disturbed in the course of development shall be recorded, conserved, stored at the applicant's expense and returned to site and presented on site in an arrangement agreed with the planning authority and City Archaeologist.
 - d) The developer shall employ a suitably-qualified archaeologist prior to the commencement of development to assess the site, monitor all site development works, including demolition, and to advise on best archaeological practice.
 - e) The archaeologist employed by the developer shall prepare, for the written agreement of the planning authority and City Archaeologist in advance of any other site preparation works, a detailed plan and method statement, including appropriate timeline for completion, for the carrying out of the following works as part of the development:
 - (i) the safe extraction, removal and storage of the estimated 125 gravestones, located adjacent to the application site's northern boundary, that would otherwise be impacted upon by the proposed development;
 - (ii) the assessment and analysis of the stone slabs and inscriptions and provide a methodology for conservation works on the stone

slabs and inscriptions;

(iii) the reinstatement of the c. 125 grave stones within Wolfe Tone Park;

- f) The applicant shall retain a suitably qualified archaeologist and/or built heritage specialist to make a full record of Twilfit house prior to demolition to the standard agreed with the planning authority.
- g) Following demolition works, archaeological testing shall be carried out in advance of construction works and shall be subject to an archaeological testing licence application and method statement. The testing programme shall pay due regards to the location of the crane pad and proposed piling locations.
- h) Where archaeological material is shown to be present, a detailed Impact Statement shall be prepared by the archaeologist, which will include specific information on the location, form, size and level (corrected to Ordnance Datum) of all foundation structures, ground beams, floor slabs, trenches for services, drains etc. The assessment shall be prepared on the basis of a comprehensive desktop study and, where appropriate/feasible, trial trenches excavated on the site by the archaeologist and/or remote sensing. The trial trenches shall be excavated to the top of the archaeological deposits only. The report containing the assessment shall include adequate ground-plan and cross-sectional drawings of the site, and of the proposed development, with the location and levels (corrected to Ordnance Datum) of all trial trenches and/or bore holes clearly indicated. A comprehensive mitigation strategy shall be prepared by the consultant archaeologist and included in the archaeological assessment report.
- i) No subsurface work shall be undertaken in the absence of the archaeologist without his/her express consent. The archaeologist retained by the project developer to carry out the assessment shall consult with the planning authority and City Archaeologist in

advance regarding the procedure to be adopted in the assessment.

- j) A written and digital report (on compact disc) containing the results of the archaeological assessment shall be forwarded on completion to the planning authority and City Archaeologist to determine the further archaeological resolution of the site.
- k) The developer shall comply in full with any further archaeological requirements of the planning authority, including archaeological monitoring, and if necessary archaeological excavation and/or the preservation in situ of archaeological remains, which may negate the facilitation of all, or part of any basement.
- l) The developer shall make provision for archaeological excavation in the project budget and timetable.
- m) Before any site works commence the developer shall agree the foundation layout with the planning authority and City Archaeologist.
- n) Following submission of the final report to the planning authority, where archaeological material is shown to be present the archaeological paper archive shall be compiled in accordance with the procedures detailed in the Dublin City Archaeological Archive Guidelines (2008 Dublin City Council), and lodged with the Dublin City Library and Archive, 138-144 Pearse Street, Dublin 2.

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

- 9. The following requirements of the Engineering Department (Drainage Division) shall be complied with:
 - a) The developer shall comply with the Greater Dublin Regional Code of Practice for Drainage Works Version 6.0 (available from www.dublincity.ie Forms and Downloads).
 - b) A connection from this development to the public surface water sewer network shall only be granted when the developer has obtained the written permission of the Drainage Division and fulfilled

all the planning requirements including the payment of any financial levies. All expense associated with carrying out the connection work shall be the responsibility of the developer. The development shall not connect to the public drainage network system without the prior written permission from the Drainage Division. Any unauthorised connections shall be removed by the Drainage Division at the developer's expense. A licence will be required from the Drainage Division to allow the connection work to be carried out. Permission of the Roads Dept must also be obtained for any work in the public roadway.

- c) The development shall be drained on a completely separate system with separate connections to the public foul and surface water systems.
- d) To minimise the risk of basement flooding, all internal basement drainage shall be lifted, via pumping, to a maximum depth of 1.5 metres below ground level before being discharged by gravity from the site to the public sewer.
- e) Temporary discharge of groundwater to the public drainage network during construction shall be subject to a trade effluent discharge license being obtained from Drainage Division Pollution Control Section.
- f) The development shall not entail permanent discharge of groundwater to the drainage network.
- g) The developer shall limit surface water discharge from site in accordance with the requirements of the Drainage Division as set out in the Greater Dublin Strategic Drainage Study's Technical Document on New Development.
- h) The development shall incorporate Sustainable Drainage Systems in the management of stormwater, the full details of which shall be agreed in writing with Drainage Division prior to commencement of construction.

- i) All surface water discharge from this development must be attenuated to two litres per second.
- j) A pre-connection enquiry form shall be submitted to Irish Water to ensure capacity in the network for this development. A positive response to this form shall be submitted to Dublin City Council prior to any works commencing on site.
- k) Dublin City Council's drainage records are indicative and must be verified on site. The developer must carry out a comprehensive site survey to establish all drainage services that may be on the site. If drainage infrastructure is found that is not on Dublin City Council's records the developer must immediately contact Dublin City Council's Drainage Division to ascertain their requirements. Detailed 'as constructed' drainage layouts for all diversions, extensions and abandonment of the public drainage network; in both hard and soft copy in an approved format; are to be submitted by the developer to the Drainage Division for written approval. See section 5 of the above-mentioned Code of Practice for more details.
- l) All private drain fittings such as downpipes, gullies, manholes, Armstrong Junctions, etc. are to be located within the final site boundary. Private drains should not pass through property they do not serve.

Reason: In the interests of orderly development.

10. Prior to the first occupation of the development, the developer shall submit for the written agreement of the planning authority, a scheme for the effective control of fumes and odours from the premises to be implemented and permanently maintained within the development.

Reason: In the interests of the amenities of both the immediate neighbours and general surroundings.

11. The developer shall comply with the following waste management requirements:

- a) Prior to the commencement of any works, a Construction and

Demolition Waste Management Plan must be furnished to and approved by Dublin City Council having regard to Circular WPR 07/06 - Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects - published by the DECLG, July 2006.

- b) In the event that hazardous soil or historically deposited waste is encountered during the construction phase, the contractor shall notify Dublin City Council and provide a Hazardous/Contaminated Soil Management Plan, to include estimated tonnages, description of location, any relevant mitigation, destination for disposal/treatment, in addition to information on the authorised waste collector(s).
- c) In the event of asbestos being present in the building the developer shall comply with all statutory requirements in relation to its safe removal and disposal.
- d) Prior to the commencement of any storage of waste on-site, the applicant shall consult with the Waste Regulation Unit of Dublin City Council.
- e) The developer shall submit monthly reports regarding the management of the waste during works electronically to the Waste Regulation Unit of Dublin City Council
waste.regulation@dublincity.ie
- f) The works shall comply with the following:
 - i. Waste Management Act 1996, as amended.
 - ii. Dublin City Council Waste Bye-Laws 2013 (Bye-Laws for the storage, presentation and collection of Household and Commercial waste) or any revision thereof.
 - iii. Eastern & Midlands Regional Waste Management Plan 2015-2021.
 - iv. Best Practice Guidelines on the Preparation of Waste Management Plans for the Construction and Demolition Projects – DECLG 2006.
 - v. Waste Management (Hazardous Waste) (Amendment)

Regulations S.I. No 73/2000.

- vi. National Hazardous Waste Management Plan 2014-2020.
- vii. Article 27 of the European (Waste Directive) Regulations S.I. No 126 of 2011.
- viii. Any other relevant Waste Management related regulations.
- ix. Dublin City Development Plan (Current Version).

Reason: In the interests of orderly development and public health.

12. The developer shall comply with the requirements set out in the Dublin City Council Bye-Laws for the Storage, Presentation and Collection of Household and Commercial Waste, 2013 or any revision thereof shall be adhered to.

Reason: In the interests of orderly development and public health.

13. The site and building works required to implement the development shall be carried out only between the hours of: Mondays to Fridays - 7.00a.m. to 6.00p.m. Saturday - 8.00a.m. to 2.00p.m. Sundays and Public Holidays - No activity on site. (b) Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from Dublin City Council.

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

14. During the construction and demolition phases, the proposed development shall comply with British Standard 5228 Noise Control on Construction and open sites Part 1. Code of practice for basic information and procedures for noise control.

Reason: In order to ensure a satisfactory standard of development, in the interests of residential amenity.

15. The site development works and construction works shall be carried out in such a manner as to ensure that the adjoining street(s) are kept clear of debris, soil and other material and if the need arises for cleaning works to be carried out on the adjoining public roads, the said cleaning works shall

be carried out at the developer's expense.

Reason: To ensure that the adjoining roadways are kept in a clean and safe condition during construction works in the interests of orderly development.

16. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion and maintenance until taken in charge by the local authority (or by a Management company subject to the written agreement of the planning authority) of roads, footpaths, watermains, drains, public open space and other services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion or maintenance of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

Reason: To ensure the satisfactory completion and maintenance of the development until taken in charge

17. 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.

18. 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, 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.

John Desmond
Senior Planning Inspector

23rd November 2018