



An  
Bord  
Pleanála

## Inspector's Report ABP-301928-18.

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### Development

Demolition of existing 2-4 storey building and the construction of a 6 storey over basement 178 bedroom hotel.

### Location

17 Portobello Harbour and Portobello College, Portobello Harbour, Dublin 8.

### Planning Authority

Dublin City Council.

### Planning Authority Reg. Ref.

4284/17.

### Applicant(s)

MKN Property Group & Tifco Limited.

### Type of Application

Permission.

### Planning Authority Decision

Grant.

### Type of Appeal

Multiple.

### Appellant(s)

First Party V condition

Third Parties:

Dr. Vinny Ramiah & Dr. Aisling Loy

Ronald Ramsden

Maria Corbett & Others

Alicia O'Keefe & Others.

**Observer(s)**

Sinead Morgan  
Cllr. Claire Byrne  
Robert & Ruth Stefanuik  
Shaun & Muireann Baynes  
Harriet Shortall  
TII  
Graham Stone.

**Date of Site Inspection**

6<sup>th</sup> December, 2018.

**Inspector**

A. Considine.

## 1.0 Site Location and Description

- 1.1. The subject site is located on the south side of Dublin City, approximately 1km to the south of St. Stephens Green and bounding the Grand Canal to the south. There are a variety of uses evident in this area of Dublin City including extensive residential in the form of two storey terrace to the north of the site on Portobello Harbour and to the north and west, with three storey commercial buildings towards the east and Richmond Row and educational and office use in the adjoining four storey modern construction building with apartment developments to the west. To the east the site bounds a public plaza area, Portobello Square with Protected Structure, Portobello House to the east of the public road. The site occupies a prominent location in the streetscape.
- 1.2. Portobello House is a three storey, protected structure located on the canal, constructed by James Colbourne as a hotel in 1807. The building was one of five such built between Dublin and Shannon. The building comprises three storeys with nine bays fronting onto the canal. The building is a very prominent landmark lying due north of La Touche Bridge and bound to the east by Richmond Street South and to the west by Richmond Row. Portobello House fronts onto Charlemont Mall.
- 1.3. The subject appeal site covers a stated area of 0.13ha and is currently occupied by two buildings, including the Harbour House and the former Data Micrographics Ltd buildings, which are to be removed to accommodate the proposed development. The Harbour House building is a 3/4 storey over basement red brick building which was constructed in the 1991s and currently accommodates the Grafton College Dublin, an English language school. The Data Micrographics Ltd building is currently in use as artist studios and is a 2 storey light industrial warehouse built in the 1950s as the Ever Ready Batteries factory. Neither of these buildings are protected structures.
- 1.4. The primary traffic route between Rathmines and Dublin City is on Rathmines Road which is located across the canal from the subject site, running in a north-south direction. The site is located in an area served by a number of transport options including cycle paths, bus corridors and within 500m of the Charlemont Luas stop.

## 2.0 Proposed Development

- 2.1. Planning permission is sought for the demolition of the existing 2 to 4 storey buildings at the subject site and the construction of a 6 storey over basement, 178 bedroom hotel of approximately 5,775m<sup>2</sup> with terraces at the fourth floor facing south and east, as well as a set back terrace (non-public access) at the fourth floor (northern elevation); all ancillary areas to include staff areas, external service yard to the west, welcome / reception, bar, licensed restaurant, gym, meeting room / business library, laundry and electric substation and transformer all located at ground floor level; 16 no. cycle spaces at ground floor levels, hotel bedrooms at ground floor (fronting onto Grand Canal) and from first to fifth floor levels across the building; ancillary basement areas to include plant room, staff-room / kitchen and changing areas; canopy to entrance onto existing plaza, roof plant area and green roof and all ancillary site development / boundary works all on a site of approx. 0.13ha at 17 Portobello Harbour and Portobello College, Portobello Harbour, Dublin 8.
- 2.2. The planning application was accompanied by the following documents:
- Relevant plans and particulars, application, public notices and fee.
  - Planning Report, which includes AA Screening Report
  - Montages and CGI Images
  - Traffic / Transport Assessment & Preliminary Mobility Management Plan
  - Drainage Report
  - Architects Design Statement
  - Visual & Architectural Heritage Impact Assessment
  - Sunlight & Daylight Access Analysis
- 2.3. The proposed development will rise to an overall height of approximately 20.4m and will front onto the existing Portobello Square. The proposed finishes include selected beige brick with red brick elements and extensive double glazed aluminium windows with metal seam cladding and glass balustrade at upper levels. No car parking is proposed for the development.

2.4. Following a request for further information, the proposed development was amended to provide for:

- A revised façade treatment to include glazing at fourth and fifth floor levels.
- A reduction in parapet height by 600mm on the southern elevation and by 275mm along the northern elevation.
- An additional set back at fifth floor level only.
- Omission of canopy from entrance.
- Removal of any intrusion on the square while still bringing the benefit of animated façade to the space.

## 3.0 Planning Authority Decision

### 3.1. Decision

The Planning Authority decided to grant permission for the proposed development, subject to 11 conditions including condition 10 which seeks to omit proposed floor 4 from the development.

### 3.2. Planning Authority Reports

#### 3.2.1. Planning Reports

The initial planning report notes that the proposed use is open for consideration under the zoning objective and cites the relevant sections of the Development Plan against which the proposed development is considered. The report raises concerns in terms of urban design, height and impact on sunlight and daylight as well as overlooking and overshadowing, use of the public plaza. The report concludes that further information is required, including the concerns of the Roads and Traffic Planning Division.

Following receipt of the response to the further information request, the Planning report considered the proposed height reduction is inadequate to reduce the impact of the development. The report also recommends that conditions be included in any grant of permission in relation to the widths of columns on the southern elevation.

The omission of the proposed canopy is noted and deemed acceptable and that parking and roads issues have been addressed. The report concludes recommending that permission be granted subject to conditions. The report forms the basis for the Planning Authority's decision to permit the development.

### 3.2.2. Other Technical Reports

**Engineering Department – Drainage Section:** No objection subject to compliance with conditions.

**Roads & Traffic Planning Division:** The report notes the third party submissions. In relation to car parking, the report notes that the site is located within Area 2 where Table 16.1 of the City Development Plan requires a maximum of 60 parking spaces to serve the development. Notwithstanding the submissions in relation to parking, the report concludes that the non-provision of car parking is acceptable in principle, but notes that inadequate information has been provided in terms of a Mobility Management Plan and alternative parking provision. Further information required.

The proposed development is considered acceptable in terms of cycle parking. It is noted that no banqueting or meeting space and that the proposed servicing arrangements are acceptable.

Concerns are raised in terms of the proposed works outside the application site including the proposed overhanging entrance canopy, relocation of cycle stands, provision of set down area and provision of private street furniture on the public plaza. Further information is required.

The report also notes that a preliminary Construction Management Plan has not been submitted.

Following the submission of a response to the further information request, the Roads & Traffic Planning Division submitted a second report. Of note, the Division no longer objects to the relocation of the cycle stands and considers that the proposal to delineate an existing section of un-demarcated free parking adjacent to the site with double yellow lines to provide for a set down area for the hotel acceptable. The report recommends conditions.

### 3.2.3. Prescribed Bodies

**Transport Infrastructure Ireland:** The site is located within the area set out in Section 49 Levy Scheme Luas Cross City (St. Stephen's Green to Broombridge Line) Contribution Scheme and the development is not exempt from the liability.

**Failte Ireland:** Support the proposed development as Dublin City is experiencing unprecedented hotel occupancy rates, peaking at over 94%. It is essential that the delivery of new accommodation is supported. The current demand exceeds supply which inflates prices.

**An Taisce:** It is submitted that the existing buildings, to be demolished, were constructed 20 years ago in a scale and grain appropriate to the canal harbour. Any redevelopment of the site should retain and reuse the building in accordance with Section 16.2.4.2 of the Development Plan which promotes the re-use of existing buildings on a sustainability basis. The submission also notes the residential Z1 zoning and submits that the proposed hotel is not compatible with the zoning objective and will adversely affect residential amenity by way of increased noise and disturbance. It is not considered appropriate to bring this use into a residential area of intimate scale.

### 3.3. Third Party Submissions

There are 60 objections to the proposed development noted on the Planning Authority file, including a submission from an online petition with 6,898 signatories, from people across the world. The issues raised are summarised as follows:

- Excessive height and impact on light and sun on existing residents.
- Overshadowing of residential properties and the public plaza.
- Roads and traffic implications and impact of the development on the ability of emergency services accessing the site through the small roads.
- Lack of parking availability in the area.
- Late night functions and impacts on residents, particularly the elderly.
- Concern regarding the requirements for electricity generators in proximity to houses.

- The site should be used for appropriately scaled housing given the current housing crisis.
- The plans show the development commandeering parts of the Harbour which is a public amenity by placing tables etc on the public space. No permission has been sought or granted to use the public area as proposed and therefore the application should be deemed invalid.
- The plaza is a public square which is used by children in the area for ball games and skateboarding. To convert it to a thoroughfare for an unnecessary hotel would be highly regressive and negative development.
- Lack of rodent control plan during construction.
- Impacts on water pressure and drainage system.
- Visual impact of the development due to the design, scale and height.
- Lack of need for further hotels as the area is thoroughly serviced by hotels, including the recently permitted hotel at Charlemount.
- Construction and deep excavations required within the Canal Conservation Corridor.
- Impact on architectural and historical heritage including Portobello House, Protected Structure. Comparisons in the Heritage Report are questionable as they relate to developments which are not in an area of the Canal which includes such protected structures.
- Little clarity in the application on the impact of the demolition on adjoining structures or the steps to be taken to ensure protection of those structures. It is questioned whether the adjoining apartments will be habitable during the construction phase.
- Lack of clarity in respect of the proposed use of the grass roof portion of the development.
- Impact on privacy of residents.
- Location of service entrance directly opposite houses will result in unacceptable noise.



- Compliance with zoning objective questioned. The proposed development will significantly alter the existing neighbourhood feeling of Portobello.
- Overdevelopment of the site.
- The site is perfectly developed to provide a school where there is a lack of gaelscoils in Dublin.
- There are plans in place for local community uses of the Portobello Harbour Urban Park for use as a childrens playground, Christmas Tree site and organic farmers market at weekends. The proposed development would result in the park area being eroded to service the hotel including taxi rank, bus/coach stop and placing of tables and chairs in the space with consumption of alcohol.
- The drawings submitted suggest that the north western corner of the proposed building is opposite a 4 storey building which is incorrect as most of the houses on the street are 2 storey.
- The development should be scaled down to a maximum of 3 storeys on the north west corner.
- No Environmental Impact Statement attached to the proposal is a concern given the habitat for swans adjacent to the site.
- Lack of community consultation or consideration of the impacts the development will have on their lives.
- The development will result in the extension of the entertainment districts of Camden St. and Harcourt St into a residential area.
- Potential contamination of the Ever Ready site is of concern and should require an environmental assessment. No asbestos report submitted
- Concern about the density and plot ratio of the development is raised as is the quality of the documents submitted in support of the development. Conflicting information provided in the submitted documents.
- Relocation of bike stands to accommodate a set down area should be resisted.
- Flood risk has not been assessed appropriately.

## 4.0 Planning History

**ABP ref PL29S.233818 (PA ref 5222/08):** Permission refused on appeal in 2010 for demolition of buildings and the construction of a medical consulting centre of 3-7 floors (5,833m<sup>2</sup>) (amended to 5 storeys following FI), restaurant, retail unit, coffee shop and double level basement parking (52 car and 51 bicycle spaces). The reason for refusal is stated as follows:

Having regard to the location of the site within an identified Conservation area associated with the Grand Canal, to its location in the setting of Portobello House, a protected structure and to the scale of the buildings currently on the site addressing the Grand Canal, it is considered that the scale, form and design of the building proposed would be out of character at this location, would be visually obtrusive when viewed along the Grand Canal, would detract from the visual quality of the area and detract from the setting of Portobello House, and result in an undesirable precedent for further such development in the Grand Canal Conservation Area. The proposed development would seriously injure the amenities of the area and of property in the vicinity and would, therefore, be contrary to the proper planning and sustainable development of the area.

**ABP ref PL29S.238244 (PA ref 3754/10):** Permission granted on appeal in 2011 for demolition of buildings and their replacement by a Medical Centre of 3-5 floors (4,482m<sup>2</sup>), restaurant, retail unit, coffee shop and double level basement parking (51 spaces).

This permission was extended by Dublin City Council in 2016 until the 9<sup>th</sup> of November, 2019.

**ABP ref PL29S.243721 (PA ref 2565/14):** Permission granted on appeal in 2014 for the change of use of 781m<sup>2</sup> of existing office / showroom / warehouse to use as a Health and Fitness Studio.

### 4.1. Adjoining sites:

**PA ref 1098/07:** Permission refused for the demolition of existing on site structures and construction of a 5-storey building over basement car park for educational use with a glazed extension to Portobello House (Protected Structure).

Permission refused for 3 reasons related to visual obtrusion and material impact on character and integrity of adjoining Protected Structure; overdevelopment and injure amenities of adjoining properties; unacceptable demolition of no.37 which is located within a Conservation Area and injury to visual amenities of the streetscape.

**ABP ref PL29S.228802 (PA ref 07/6147):** Permission granted on appeal in 2019 for demolition of buildings and the construction of a 4-5 storey building for educational and ancillary use to the rear of Portobello House, Protected Structure.

## 5.0 Policy Context

### 5.1. Development Plan

The Dublin City Development Plan, 2016-2022 is the relevant policy document relating to the subject site.

The site is located within a district centre which is zoned Z1. It is the stated objective of this zoning 'to protect, provide and improve residential amenities.' Hotel use is a use which is open for consideration on such zoned lands. The area directly to the east of the site is zoned Z9, Amenity / Open Space Lands / Green Network where it is the stated objective of this zoning 'to preserve, provide and improve recreational amenity and open space and green networks.'

Chapter 4 of the Plan deals with Shape and Structure of the City and Section 4.5.4, deals with Taller Buildings as part of the Urban Form and Spatial Structure of Dublin. Of note in this regard is Section 4.5.4.1 which deals with taller buildings including within conservation areas within the historic core of the city.

Chapter 6 of the Plan deals with City Economy & Enterprise where Section 6.5.3 relates to tourism/visitors and policies relating to hotel developments include CEE14(i), where it is the stated policy to 'to promote and facilitate tourism as one of the key economic pillars of the city's economy and a major generator of employment and to support the provision of necessary significant increase in facilities such as hotels, apart hotels, tourist hostels, cafes, and restaurants, visitor attractions, including those for children.'

The site is also located within a Conservation Area and chapter 11 of the Plan deals with Built Heritage and Culture. Section 11.1.5.4 deals with Architectural

Conservation Areas and Conservation Areas and Policy CHC4 is relevant. Section 11.1.5.7 deals with Demolition of Protected Structures & Buildings in Architectural Conservation Areas.

Chapter 16 of the Plan deals with Development Standards and Section 16.7 deals with Building Heights in a Sustainable City, and Section 16.7.2, which relates to height limits and areas for Low-rise, Mid-rise and Taller Development, while section 16.10.15 deals with basements, Section 16.10.17 promotes the retention and re-use of older buildings of significance which are not protected and Section 16.38 deals with car parking standards.

## **5.2. Natural Heritage Designations**

The site is not located within any Natura 2000 site. However, the pNHA Grand Canal, Site Code 002104 is located within metres of the site to the south.

## **6.0 The Appeal**

### **6.1. Grounds of Appeal**

This is a multiple appeal including both first and third parties. The grounds of each appeal are summarised as follows:

- 6.1.1. The First Party has submitted appeal against the inclusion of condition 10a of Dublin City Councils decision. Condition 10a requires that the proposed 4<sup>th</sup> floor as identified in Drawing Number P-S-&-111 AND Drawing Number P-S-4-105 shall be omitted in the interests of orderly development and the visual amenity of the area. The appeal includes a number of supporting documents as well as a planning report providing relevant information regarding the site, location, policy, planning history etc.

The Board will note that the submission also includes the decision of the Planning Authority and a Dublin City Council Planning Officers report. The report submitted does not relate to the subject site and was likely submitted in error. The grounds of appeal are summarised as follows:

- It is acknowledged that the principle of the hotel development at the site is considered acceptable by the PA.
- The response to the FI request has satisfactorily addressed the concerns raised in relation to the visual impact. The applicant has submitted plans to comply with condition 10b in terms of design amendments.
- Planning permission for developments upto 6 storeys at locations adjoining the Grand Canal in proximity to the site, including in proximity to two storey properties and protected structures.
- National Policy Objective 13 of the NPF notes that where the existing character of land use in an urban area may be subject to change, a more dynamic approach will be applied relative to building height in order to achieve targeted growth. The subject site is a brownfield urban site and the proposal complies with the stated policy objective.
- A step up in height is considered acceptable given its corner location and interaction with the public realm.
- The omission of the floor as conditioned will result in the development falling below that previously permitted by ABP under PA ref 3754/10 and ABP ref PL29S.238244.
- The scale of the proposed building is broadly consistent with Portobello House and is well related to the building as illustrated in the submitted CGIs.
- The applicant, in response to the FI request reduced parapet heights, removed 3 bedrooms and increased the setback which reduces the massing of the building at fifth floor level.
- Examples of using solid glazing at set back fourth and fifth floor levels are submitted. It is submitted that the omission of the fourth floor would compromise the aesthetic quality and visual appearance of the building creating an imbalanced design.

It is requested that condition 10a be omitted.

6.1.2. Mr. Roland Ramsden submitted a third party appeal against the decision of Dublin City Council to grant permission for the proposed development. The grounds of appeal are summarised as follows:

- The proposed development will result in overdevelopment of the site and the scale fails to recognise the established scale and pattern of development in the area.
- Impacts on the protected structure and historical heritage.
- The development will have a detrimental impact on the public space and the proposed entrance will create a nuisance, disturbing those enjoying the amenity value of the plaza. Concern is also raised that the hotel would co-opt the area of the plaza adjacent to the hotel. The development does not accord with the zoning objective for the area.
- Potential environmental contamination has not been adequately addressed.
- Impacts on access to the adjoining streets during the construction of the development for pedestrians and residents. Also issues of access when the hotel is operations which will disturb nearby residents.
- Loss of privacy and light to residents.
- Parking issues given the scale of the hotel and the current parking issues in the area. There is no multi-storey car park in the vicinity of the site for guests.
- There is an adequate supply of hotels in the area between 100m – 550m, including 6 existing and 2 proposed, with a further 3 hotels within 1km.
- As a residential neighbourhood, it would be more in keeping for the development to be residential in nature.

6.1.3. Ms. Maria Corbett, Ms. Emma Donovan, Dr. Ana Rakovac Tisdall and Mr. Domenico Fioravanti have submitted a joint third party appeal against the decision of Dublin City Council to grant permission for the proposed development. The grounds of appeal are summarised as follows:

- The proposed does not comply with proper planning, will not promote the sustainable development of the area and will have a negative impact on the environment. It is considered that the applicant did not address adequately,

the issues raised in previous observations or Dublin City Councils request for further information.

- The development contravenes the Development Plan as it will damage both the residential amenities and recreational amenity of open space.
- Concern in relation hydrological issues and the construction of the basement into two old docks. It is likely that the old docks are probably intact stone walled basins. The developer has not provided an assessment of whether they will be excavating below the water table.
- No information has been provided in terms of the impact of noise and vibration created during piling works or the impact of such works on the 200 year old houses to the north of the site.
- Impact on the architectural and historical heritage of the area. There has been no significant design change to address the concerns of the Planning Authority in their request for further information. The development will have a negative impact on the setting and vista of a protected structure, Portabello House.
- Glazing is not considered a 'fix' to a building that is too high and too dense.
- The residential amenity of Portobello Plaza is not protected by the proposed development. the development will diminish the amenity and open space of the Plaza by:
  - Limiting the usability and functionality of the Plaza
  - Loss of light and overshadowing of the space
  - Loss of open space through the relocation of the bike racks to enhance the hotel will contravene zoning objective Z9
  - A grant of permission will privatise and commercialise public space and will disturb the purpose of the plaza.
- Issues in relation to traffic management including the proposed provision of a set down area which is to take 5 un demarcated free car parking spaces on Portobello Harbour. No agreement has been made to use these spaces.

Given the narrow nature of the local streets the development will result in congestion and safety issues arising.

- The narrow roads cannot accommodate large vehicles and the traffic report conclusion that there will be ‘absolutely negligible and unnoticeable change in traffic conditions locally in terms of car movements’ is questioned given the scale of the hotel proposed.
- The site is not located within the city centre as used throughout the application documentation and is a mainly residential area to the south east of the city centre.
- There is very little ‘spare’ parking available in the area.
- The development does not support the proper planning or sustainable development of the area where there is a concentration of hotels and a need for residential development.
- Having regard to the location of the site, a full site investigation report should have been produced in advance of permission being granted particularly in terms of contamination potential and the construction of foundations.
- The proposed development does not to enhance the residential amenities of the area as required by the zoning objective afforded to the site.

6.1.4. Kieran O’Malley & Co. Ltd, on behalf of Alicia O’Keeffe, Kieron J Walsh, Harper Walsh, Marianne Comer, Martin Nolan, Jamie Nolan, Patrick Nolan and Piaras Nolan have submitted a joint third party appeal against the decision of Dublin City Council to grant permission for the proposed development. The grounds of appeal are summarised as follows:

- The proposed development does not satisfy the development plan criteria for the zoning of the site, including Section 14.4 of the Development Plan.
- There is no demonstrable need for a hotel in the area.
- The proposal represents an overdevelopment of the site.
- The development would seriously injure existing residential amenity by way of overlooking and overshadowing as well as invading the privacy of residents.



- The response to the FI request did not address the concerns of the PA and the previous permission on the site was for a 3 to 4 storey building, not 3 to 5 as stated by the applicant.
- The development would have a negative visual impact on Portobello Harbour, the ACA and protected structure Portobello House by reason of its scale, height and mass.
- Traffic and parking issues and the total absence of off street parking would further add to the already excessive demand for on street parking at Portobello Harbour and neighbouring residential streets. The area was subject to excessive 'rat-running' during peak times until the Council created a traffic cell to deter non-essential traffic, re-establishing the residential character of the area.
- It is not accepted that the proposed development would not generate significant traffic and parking demands. The floor plans, contrary to the Mobility Management Plan, provide for a meeting room which could accommodate upto to 30 work stations, gym as well as a number of food and beverage areas which will facilitate non hotel guests.
- There are no parking facilities in the vicinity of the site to accommodate the development and it appears that there is no agreement with the Council regarding the use of the parking spaces adjacent to the site as a set down area.
- In relation to the identification of hotel developments in the area, it is submitted that, of the 22 sites identified, only 1 was located on lands zoned for Z1 residential development.
- The appeal request that the Board consider the inclusion of a number of conditions, should it be minded to grant permission in this instance, including as follows:
  - Reduction of the height by the omission of a further floor
  - Provide a set back to Portobello Harbour for a dedicated set down area to serve the hotel

- Provide car parking for up to 50 cars in an underground car park similar to the approved carpark in PL29S.233818.

It is requested that permission be refused for the development as proposed.

There are a number of enclosures with the appeal.

## 6.2. Applicant Response

The applicant submitted a response to the third party appeals, summarised as follows:

- The proposed use is open for consideration within the Z1 zoning of the site and the principle has been accepted by the Planning Authority.
- The proposed use is a superior alternative to the industrial and educational uses currently occupying the site, and to the permitted medical centre which would give rise to increased traffic levels.
- The subject site is not currently in residential use and will not result in any reduction in the housing supply of the city. The existing industrial use is not compatible with the zoning of the site and the proposed development will deliver a compatible use which will protect residential amenity to a greater extent to that existing at present.
- A residential development at the site would be more likely to include provision for car parking and access which has the potential to exert greater pressure on the surrounding road network in comparison to the hotel development with no parking.
- In terms of the issues raised with regard to the need for the hotel, it is submitted that the proposal complies with the City Development Plan requirements.
- The Davy research of January 2018 suggests that 38% fewer rooms will come to the market in 2018 and highlights the continuing requirement for hotel accommodation in Dublin City Centre.
- In relation to the issue of overdevelopment, it is submitted that the existing development on the site equates to 100% site coverage.

- The plot ration of 4:1 is considered justified in the context of Section 16.5 of the City Development Plan.
- The existing plot ration of 2:1 is considered to be underdeveloped given the brownfield nature of the site and its location within the city centre. The proposed height of the building is well below the limits of 28m for commercial development within this inner city area.
- With regard to residential amenity impacts, it is submitted that the applicant disagrees with the appellants.
- It is noted that three storey residential development exists in harmony with the two storey dwellings in the area.
- The development will result in a moderate change in sunlight access to buildings but is unlikely to affect the capacity for south-facing windows on buildings to the north of Portobello Harbour to receive an adequate amount of sunlight over the course of the year within the meaning of the BER guide.
- The shadow extended by the permitted medical centre on the site is similar to the current proposal which was deemed acceptable by the Board and the PA.
- The applicant notes the requirements of Condition 10a of the PAs decision to grant permission and in relation to overlooking, it is proposed that all bedrooms at the northern elevation of the hotel will be fitted with voile and curtain coverings.
- Any impacts in respect for sunlight and daylight access at no. 24 Portobello Harbour are considered as being imperceptible.
- Any impact on residential amenity in the context of overshadowing, overlooking and light access is considered to be acceptable in the context of the current guidelines.
- In terms of visual impact, it is submitted that the proposed development is of a scale which is appropriate to its urban context and has taken due regard to the surrounding nature of existing development with its design. Amendments were made at FI stage to reduce the height overall to +20.4m which is well below the 28m limit set in the CDP.

- The separation distance from Portobello House, Protected Structure, serves to significantly reduce the visual appearance of the development within the streetscape.
- It is considered that the proposed development will not result in an unacceptable visual impact in the context of the existing 2 storey dwellings to the north given the separation distance and the set back of the upper two floors.
- Evidence of similar type developments adjacent to protected structures permitted by the Board is provided.
- It is not accepted that the proposed development will have an impact on the public plaza. The proposed development will introduce active frontage to the plaza which is superior to that existing at present.
- The proposed development aspires to the quality of urban spaces such as Smithfield Square, Templebar Square and the new square at Bolands Mills.
- The existing plaza is currently underused and has experienced elements of antisocial behaviour.
- It is not the intention of the applicant to privatise or vary the zoning of the public open space.
- With regard to traffic and parking, it is submitted that no minimum parking provision is specified in the Plan and the zero parking proposal has been confirmed as being acceptable by the PA.
- The benefit of zero parking will reduce the quantity of vehicles in the area.
- The hotel does not propose function or conference facilities.
- The delineation of an area of street at Portobello Harbour to provide for a set down area for the hotel has been agreed with the PA.
- In terms of the site conditions, the applicant notes the planning history of the area and site and the methodology involved in the site investigatory works which will be carried out is submitted.

The response includes a number of enclosures and it is requested that permission be granted for the proposed development.

### 6.3. **Planning Authority Response**

The Planning Authority has not responded to the first or third party appeals.

### 6.4. **Observations**

There are 7 observations noted in relation to the subject appeal, including one from TII. The TII submission notes the location of the site within the Section 49 Levy Scheme Luas Cross City (St. Stephen's Green to Broombridge) Line Contribution Scheme. The issues raised in the other 6 observations reflect and restate those issues raised in the above appeals and are summarised as follows:

- The applicants did not fully respond to the PAs FI request. The PA should have refused permission given the outstanding issues to be addressed.
- Issues raised in relation to the scale, massing, height and bulk of the proposed development.
- Impacts on residential amenity and loss of natural light.
- Impacts on roads and parking in the vicinity of the site.
- Impacts on public plaza and protected structure by reason of overshadowing.
- Non compliance with the zoning objective of the site in the Development Plan.
- No need for additional hotel in the vicinity.
- Impacts on public open space.
- Changes to the streetscape.
- The site should be used for residential purposes.

### 6.5. **Further Responses**

- 6.5.1. Kieran O'Malley submitted a response to the other appeals to the proposed development on behalf of clients advising support for the other three third party appeals. In response to the first party appeal, the response is summarised as follows:

- The applicant refers to a grant of permission ref 5222/08, which was refused permission by the Board PL.29S.233818 and reference to permission ref 3754/10 is also misleading because the Board reduced the extent of the Medical Centre development to 3 to 4 storeys, 3 storeys to Portobello Harbour.
- Responses provided to applicants reference to the NPF and other National policy context, as well as non-compliance with the City Development Plan and concludes that the development would materially impinge on the residential and visual amenities of the area.
- The proposed scheme design and layout has not had regard to the residential character of the area and no evidence has been presented to support claims that Portobello Plaza is subject to anti-social behaviour on a regular basis. The proposed provision of a hotel is not compatible with the residential location.
- Portobello is not a regeneration area so policy CEE15 or CEE22 do not apply.
- The response to the FI request was inadequate to address the concerns raised.
- In terms of the examples of height permitted in the vicinity of the site, it is submitted that none are comparable to the subject site and none of the examples were for development on lands zoned Z1.

It is requested that the Board refuse permission for the proposed development.

6.5.2. A further response was submitted by Kieran O'Malley & Co. Ltd in response to the first party response to the third party appeals. The response provides no material change to the proposal and largely repeats unsubstantiated statements and assertions. It is also noted that the section drawing submitted shows the reduced proposal as per the Councils decision and not the original proposal. The following comments are submitted:

- The latest facts and figures on tourist accommodation, released on the 27<sup>th</sup> of August, 2018 estimate that there will be 5,435 new hotel rooms on-stream by the end of 2020, with a net addition to the Dublin stock being just over 4,900. The information suggests that there is no need for the proposed development.

- The response identifies a number of headings reflecting the first party response to the third party appeal issues and concludes that the applicant has failed to address the issues raised.

The response concludes that while the appellants have no objection in principle to re-development of the site, evidenced by the fact that there was no objection to the previously permitted medical centre, the Board is requested to refuse permission for the current proposed development.

6.5.3. Ms. Maria Corbett, Ms. Emma Donovan, Dr. Ana Rakovac Tisdall and Mr. Domenico Fioravanti have submitted a joint third party response to the first party response to the third party appeals. The response is summarised as follows:

- It is considered that the proposed development contravenes the zoning objective of the site and insufficient evidence has been presented to justify deviating from the Z1 objectives of providing housing instead of a commercial hotel and references to the NPF relate to housing and not hotels.
- All other issues raised in the third party appeal have not been adequately addressed.

## 7.0 **Assessment**

Having undertaken a site visit and having regard to the relevant policies pertaining to the subject site, the nature and scale of the proposed development and the nature of existing and permitted development in the immediate vicinity of the site, I consider that the main issues pertaining to the proposed development can be assessed under the following headings:

1. Planning History & Compliance with Policy
2. Visual Amenity issues and impacts on Protected Structure
3. Other Issues
4. Appropriate Assessment
5. Environmental Impact Assessment

## 7.1. Planning History & Compliance with Policy:

- 7.1.1. The subject site is located within an existing built up area which is primarily residential in use and with some commercial and educational uses in the wider area. The site is currently occupied by a 4 storey structure which is connected to a recently constructed apartment building to the west with Portobello Harbour Square located immediately to the east. Portobello House is a three storey protected structure which is currently used for educational purposes. Immediately to the north of the site is Portobello Harbour which comprises a terrace of two storey houses.
- 7.1.2. The proposed development seeks to demolish existing structures on the site and construct a six storey over basement hotel. The uses on the site have included educational and light industrial. Planning permission was previously sought for the construction of a 3-7 storey medical centre on the site with heights of up to 20m which was refused by the Board for the following reason:

Having regard to the location of the site within an identified Conservation area associated with the Grand Canal, to its location in the setting of Portobello House, a protected structure and to the scale of the buildings currently on the site addressing the Grand Canal, it is considered that the scale, form and design of the building proposed would be out of character at this location, would be visually obtrusive when viewed along the Grand Canal, would detract from the visual quality of the area and detract from the setting of Portobello House, and result in an undesirable precedent for further such development in the Grand Canal Conservation Area. The proposed development would seriously injure the amenities of the area and of property in the vicinity and would, therefore, be contrary to the proper planning and sustainable development of the area.

A subsequent, and extant, permission exists for the construction of a medical centre on the site, ABP PL29S.238244 refers. Permission was sought for a building rising to between 3-5 storeys, with a height of 18m. On appeal, the Board reduced the extent of the Medical Centre development to 3 to 4 storeys, 3 storeys to Portobello Harbour. In light of the planning history associated with the subject site, I am satisfied that the Board has been consistent in its determination that a maximum of three storeys is appropriate for this site onto Portobello Harbour. Should the Board be minded to



grant permission in this instance, I would recommend that the entire northern elevation of the proposed development should be reduced to a maximum of 3 storeys, with the overall height of the building being reduced to a maximum of 4 storeys.

- 7.1.3. The subject site is located adjacent to the Grand Canal in the Portobello area of Dublin City and on lands zoned Z1 in the current Dublin City Development Plan. The stated objective for this zoning is “to protect, provide and improve residential amenities”. The proposed use as a hotel is a use which is open for consideration on such zoned lands. The lands immediately to the east of the site comprise Portobello Square which has a Z9 zoning afforded to it, being Amenity / Open Space Lands / Green Network where it is the stated objective of this zoning ‘to preserve, provide and improve recreational amenity and open space and green networks.’
- 7.1.4. Section 14.4 of the City Development Plan identifies that ‘an open for consideration use is one which may be permitted where the planning authority is satisfied that the proposed development would be compatible with the overall policies and objectives for the zone, would not have undesirable effects on the permitted uses, and would otherwise be consistent with the proper planning and sustainable development of the area’.
- 7.1.5. In terms of the above, I note the primary use of this area of Dublin City is residential, with some commercial and educational uses evident. In considering the proposed development against the policies and zoning objectives of the Plan, together with the existing uses on the site and the adjacent public open space area, I would have real concerns that the scale of the development proposed would significantly and negatively impact on the existing residential amenity of the area. In particular, I would note that the existing educational and commercial uses of the buildings to be demolished are primarily day time uses and that the proposed hotel would operate 24 hours. This intensification of use within this residential neighbourhood, and in particular on the narrow street of Portobello Harbour, and would not be compatible with overall policies and objectives for the Z1 zone, would have undesirable effects on the existing permitted uses in the area and would be contrary to the proper planning and development of the area.

## 7.2. Visual Amenity Issues & Impacts on Protected Structure:

- 7.2.1. I note the planning history associated with the subject site and in particular the previous concerns relating to the potential visual impacts of the redevelopment of the site. I have discussed my concerns in terms of the overall height of the proposed hotel on the site and would restate here that as proposed, it is my opinion that the development, if permitted, would have a significant and negative visual impact on this area. While I note the opinion of the applicant that while the scale of the building is likely to alter the setting of the area, it is considered that the proposed development is 'consistent with the long established pattern of large and tall buildings along Grand Canal', I would have reservations in the context of the subject site.
- 7.2.2. The Board has considered a number of proposed developments on this site in the past number of years, and in all instances, the issue of height has consistently been a concern. While I acknowledge the maximum height limits for buildings in the City as per the Dublin City Development Plan, and notwithstanding the examples of permitted higher buildings along the Canal submitted in support of the proposed development, the actual site specific constraints are required to be considered.
- 7.2.3. In addition to the potential impact on residential amenity, the Board will also note the proximity of Portobello House, Protected Structure to the subject site. The applicant submits that the 'proposal will appear as a secondary element in views of Portobello House'. I would disagree. I consider that the development as proposed is unacceptable in terms of visual impact and the potential impact on the adjacent protected structure. Given that the applicant has appealed the City Councils decision to grant permission for the proposed development subject to condition 10a, which requires the omission of a floor, I would consider it unreasonable to condition the omission of additional floors at this point. Refusal of permission is therefore recommended.

### 7.3. Other Issues

#### 7.3.1. Overdevelopment of the site:

The proposed development site is located within an area of Dublin City which is identified for plot ratios of between 0.5-2.0, with a site coverage of 45%-60%. The existing development on the site is indicated as having 100% site coverage with an existing plot ratio of approximately 2.0. The applicant advises that the proposed development will have a stated plot ratio of 4.1 and a site coverage of 76.4%.

It is clear that the above figures would represent a significant overdevelopment of the site given the zoning afforded to the site and the requirements of the City Development Plan. While I acknowledge the comments of the first party in this regard, I would not consider the nature of the proposed development to be compatible with the residential amenities of the area and in the context of the adjoining residential properties, I consider that the development as proposed would represent a significant overdevelopment of the site and would significantly impact upon the existing residential amenities of the area.

#### 7.3.2. Traffic & Parking:

The proposed development does not intend to provide car parking facilities on site. Having regard to the City Development Plan, the proposed hotel would have a maximum requirement of 60 spaces. The issue of traffic and parking has been raised by all of the third party appellants, and indeed, all 60 of the third parties who made submissions to Dublin City Council during its assessment of the proposed development. It is quite commonplace for hotel developments within the city not to provide car parking and the Board will note the arguments of First Party in this regard. Given the proposed lack of banqueting and meeting facilities and the location of the site in proximity to public transport, including buses and the Luas, the proposed development might reasonably be considered acceptable.

While I acknowledge the concerns of the third party appellants, I would consider that the provision of car parking may increase traffic levels in the vicinity. I also note the comments of the Roads & Traffic Planning Division of the City Council, who raise no objections to the proposed development. I also note the revisions to the proposed set down area for the hotel and subject to the preparation of a Mobility Management Plan, with particular attention given to the servicing of the hotel should the Board be

minded to grant permission in this instance, I am satisfied that the proposal might be considered acceptable.

However, I would also note the proposed provision of the business centre within the ground floor area of the development, which would appear to provide facilities for upto 33 work stations as well as a small private meeting room. Full details of this area have not been provided in this regard and therefore, I would not concur with the first party assertion that there are no meeting facilities proposed. Whether this area of the proposed development would generate significant vehicular traffic is unclear, but I would consider unlikely. In addition, while third parties have raised the issue of the provision of a gym as attracting non hotel guests to the area, I would consider that the scale of gym proposed is not significant, and would unlikely attract serious gym goers. In any case, it could be a condition of permission that the gym facility is solely for hotel guests.

#### 7.3.3. Financial Contributions:

The Board will note that the proposed development is subject to the Section 48 Development Contribution Scheme for Dublin City Council. Should the Board be minded to grant permission in this instance, a condition in this regard should be included.

In addition to the above, the site is located within the area covered by the Section 49 Levy Scheme Luas Cross City (St. Stephen's Green to Broombridge) Line Contribution Scheme. As such, should the Board be minded to grant permission, a condition requiring the payment of the contribution should be included.

#### 7.4. **Appropriate Assessment**

The site is not located within or adjacent to any Natura 2000 site. The closest designated sites are the South Dublin Bay SAC, Site Code 000210, and the South Dublin Bay and River Tolka Estuary SPA, Site Code 004024, which are located approximately 2.5km to the east of the site.

Having regard to the location of the subject site, together with the nature and scale of the proposed development on zoned lands, I am satisfied that there is no potential for impact on any Natura 2000 site, warranting AA.

## **7.5. Environmental Impact Assessment**

Having regard to the nature and scale of the proposed development, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

## **8.0 Recommendation**

In light of the above, I consider that the proposed use as a hotel would not be compatible with the existing residential nature of the wider area and would, if permitted, not accord with the overall intention of the Z1 zoning objective applicable to this site to protect residential amenity. In addition, I am not satisfied that the overbearing impact of the proposed development could be successfully mitigated by the removal of one or more floors from the proposed building and I note the first party appeal against Condition 10a of the Planning Authority's decision in this regard. I would also have serious concerns regarding the proposed plot ratio and site coverage of the proposed development, which if permitted, would significantly exceed the maximum indicative figures for Z1 zonings in the inner city, as set out in the statutory Dublin City Development Plan, and would therefore represent significant overdevelopment of this restricted site.

I therefore recommend that planning permission be refused for the proposed development for the following stated reasons.

## 9.0 Reasons and Considerations

1. Having regard to the zoning objective applying to the subject site – Z1 “To protect, provide and improve residential amenities”, together with the pattern of existing development in the immediate vicinity of the site, it is considered that the proposed development, by reason of its height, scale and nature, and the potential for disturbance that the proposed hotel use would represent, would conflict with the overall purpose of the zoning objective, and would lead to an intensification of activity in this predominantly residential area, including increased commercial servicing on Portobello Harbour, would represent significant overdevelopment of a restricted site, would be overbearing in the context of adjoining two storey residential properties and would seriously injure the residential amenities of such properties. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
2. Having regard to the location of the site within the setting of Portobello Plaza and Portobello House, a protected structure and to the scale of the buildings currently on the site addressing the Grand Canal, it is considered that the height, scale, form and design of the building proposed would be out of character at this location, would be visually obtrusive when viewed along the Grand Canal, would detract from the visual quality of the area and detract from the setting of Portobello House, and result in an undesirable precedent for further such development in the vicinity. The proposed development would seriously injure the amenities of the area and of property in the vicinity and would, therefore, be contrary to the proper planning and sustainable development of the area.

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A. Considine  
Planning Inspector

19/12/2018