



An  
Bord  
Pleanála

## Inspector's Report ABP-302342-18

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<b>Development</b>	Construction of a new 4 storey building with single storey to rear, new ground floor entrance, lift serving three one bed apartments to first, second and third floors and all ancillary services.
<b>Location</b>	No.33 Jervis Lane, Dublin 1. .
<b>Planning Authority</b>	Dublin City Council
<b>Planning Authority Reg. Ref.</b>	2704/18
<b>Applicant(s)</b>	Jas Kaminski
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant Permission
<b>Type of Appeal</b>	Third party
<b>Appellant(s)</b>	Strayfern Limited
<b>Observer(s)</b>	Transport Infrastructure Ireland.
<b>Date of Site Inspection</b>	7 <sup>th</sup> December, 2018
<b>Inspector</b>	Stephen Kay

## 1.0 Site Location and Description

- 1.1. The appeal site is located on the western side of Jervis Lane Upper which runs between Mary Street to the south and Parnell Street to the north. Jervis lane Upper is a narrow lane of c.6 metres in average width and with a cobbled surface. The site comprises an area to the rear of Nos. 47 and 48 Capel Street which fronts onto Jervis Lane. The site is currently undeveloped and there are no existing structures located on the site. There is currently a vehicular access onto Jervis Lane North via a roller shutter.
- 1.2. The buildings to the west on Capel Street have both been extended to the rear, and No.48 Capel Street has an extension that is stepped horizontally and part of which runs all the way to Jervis Lane.
- 1.3. The west side of Jervis lane in the vicinity of the site comprises a mixture of uses including residential, commercial and warehouse storage uses in buildings ranging between two and four storeys. To the south the site is adjoined by a two storey industrial / commercial type building. To the north, the closest building is located to the rear of Nos. 49/50 Capel Street and comprises a four storey over ground level mixed retail and residential building.
- 1.4. On the eastern side of the lane, there is an existing residential development in the form of the Wolfe Tone Apartments which is a part 5 and part 6 storey residential building over basement level. Access to these apartment units is via Wolfe Tone Street to the east of the site. It is also noted that this development does not have any windows or access at ground floor level onto Jervis Lane. To the north of Wolfe Tone Apartments on the eastern side of Jervis Lane, there are further apartments in a four storey building which has access from Jervis Lane.
- 1.5. The stated area of the appeal site is 146 sq. metres.

## 2.0 Proposed Development

- 2.1. The proposed development comprises the construction of a four storey development with office use at ground floor level and residential development above. Separate entrances for office and residential uses are proposed and the front building line onto Jervis Lane is proposed to be out to the existing edge of the lane. No vehicular access or parking is proposed.
- 2.2. The depth of the three storey element of the building is proposed to be 11.3 metres with a single storey element and courtyard area extending a further approximately 5 metres beyond this point. A bin store area accessible to both apartments and office occupants is proposed to the rear accessed off the courtyard area. The floor area of the office accommodation is stated to be 61.7 sq. metres net.
- 2.3. Access to the residential accommodation is via a stair core and lift on the southern side of the floorplan, and the accommodation proposed comprises 3 no. one bedroom apartment units, with a single unit on each floor. The floor area and layout of each unit is identical, and the stated net floor area is 60.3 sq. metres. The units are proposed to have a bedroom to the front facing onto Jervis Lane with a kitchen / living room to the rear with access to a recessed terrace at the south west corner of the floorplan. The area of this terrace is c.6 sq. metres.
- 2.4. The separation distance between the four storey element of the proposed development and the main rear building line of the properties at Nos. 47 and 48 Capel Street varies between c.14.2 and 15.8 metres. The property at No.48 Capel Street is included on the record of protected structures and it would appear that both Nos.47 and 48 have residential accommodation in the upper floors.
- 2.5. The plot ratio of the proposed development is given as 2.3 and the site coverage is stated to be 69 percent. The overall gross floor area of the proposed development is 340.4 sq. metres and the net floor area is stated to be 242.6 sq. metres.

## 3.0 Planning Authority Decision

### 3.1. Decision

#### 3.1.1. Request for Further Information

Prior to issuing a Notification of Decision, the Planning Authority requested further information on the following issues:

1. Revised drainage layouts and a flood risk impact assessment.
2. Evidence of ownership and legal interest in the site,
3. Consideration of the setting back of the building in view of the narrow width of Jervis Lane at this location.
4. Submission of a daylight and sunlight assessment.
5. Given the need to animate the laneway that the proposed roller shutter is not acceptable and that a minimum floor to ceiling height of 3.5 metres should also be provided.

The following is a summary of the main alterations / information submitted in response to the above request for further information.

- A drainage and flood risk assessment report prepared by Fitzsimons Doyle and Associates Engineers. It is noted that this report includes proposals for a green roof to the proposed building,
- Shadow analysis by Niall D Brennan and Associates Architects,
- Extract from Registry of Deeds, Map from deeds, copy of title map overlain with application boundary,
- Revised design / layout to provide for a set back from the lane edge and the buildings on the opposite side of the laneway,
- Omission of the roller shutter and an increase in floor to ceiling height at ground floor level to 3.5 metres.

## 3.2. Planning Authority Reports

### 3.2.1. Planning Reports

The initial report of the Planning Officer notes the submissions received including those regarding ownership / interest in the site. Concerns regarding the presentation to the lane, construction management issues and the potential impact on surrounding residential properties are expressed and further information is recommended. A second report following the submission of further information, recommends a grant of permission that is consistent with the Notification of Decision which issued.

### 3.2.2. Other Technical Reports:

Drainage Division – Initial report recommends further information relating to proposed drainage layout and also a flood risk assessment. (It is noted that this report is not on file but is referred to in the report of the Planning Officer.). Second report subsequent to the submission of further information states that there is no objection to the proposed development.

Archaeology – Recommends conditions and the submission of an archaeological impact assessment report.

TII – Request that a contribution under the s.49 Luas Cross City development contribution scheme be attached in the case of a grant of permission.

## 3.3. Notification of Decision

The Planning Authority issued a Notification of Decision to Grant Permission subject to 14 no. conditions, the most notable of which are considered to be the following:

Condition No.3 requires to payment of a contribution in accordance with the s.49 LUAS Cross City development contribution scheme.

Condition No.4 requires all material, colours and finishes to be the subject of written agreement.

Condition No.9 relates to archaeology and requires that an archaeological assessment shall be undertaken as soon as possible and in advance of any site clearance works.

Condition No.14 relates to noise control during construction.

## 4.0 Planning History

The following planning history is referenced on file:

Dublin City Council Ref. 2736/11 – Permission refused for the construction of a five storey over basement building with self contained office / commercial unit at ground floor and basement level and office use on the upper floors having a stated floor area of 600 sq. metres. Permission refused for a reason that related to the scale and massing of the proposed building, its exceedance of the height of nos. 47 and 48 Capel Street and that the development would be out of scale and character with the principal buildings on Capel Street, including No.48 which is a protected structure. The proposed development was therefore considered likely to be injurious to the character of the ACA and be contrary to Policy FC41 of the development plan which seeks to preserve the special interest and character of ACAs. Noted that the site of this proposed development omits the part of the current site which is the subject of dispute regarding ownership.

Dublin City Council Ref. 0518/07 – Application for a five storey mixed use building on the site. Application was withdrawn prior to a decision being issued.

Dublin City Council Ref. 1456/01 – Permission granted for the construction of a four storey building on a site located to the rear of No.47 Capel Street and fronting onto Jervis Lane Upper. The accommodation proposed a duplex apartment at second and third floor levels, an artist's studio at first floor and a retail / gallery space at ground floor level.

## 5.0 Policy Context

### 5.1. Development Plan

The site is located on lands that are zoned Objective Z5 under the provisions of the Dublin City Development Plan, 2016-2022 with the stated objective *‘to consolidate and facilitate the development of the central area, and to identify, reinforce, strengthen and protect its civic design character and dignity’*.

Section 14.8.5 of the Plan states that the primary purpose of Z5 zoning is to *‘sustain life within the centre of the city through intensive mixed use development’* and *‘to provide a dynamic mix of uses which interact with each other, help create a sense of community and which sustain the vitality of inner city both by day and night’*.

Residential and office uses are *‘Permissible Uses’* on lands that are zoned Objective Z5.

The indicative plot ratio and site coverage levels for lands zoned Objective Z5 are between 2.5 and 3.0 and 90 percent respectively.

The site is located within an ACA. **Policy CHC4** of the plan seeks to protect the special interest and character of ACAs.

No.48 Capel Street is included on the Record of Protected Structures. (No.1177–house).

### 5.2. Natural Heritage Designations

The site is not located in or close to any European site.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

The following is a summary of the main issues raised in the third party grounds of appeal:

- That the proposed building infringes substantially on the property of the appellants company, which is the owner of the adjacent company at No.48 Capel Street.
- That the applicant has withheld information relating to contracts for the sale of this property to Strayfern Limited when requested for particulars of ownership by the Planning Authority.
- That there is further evince that the applicant does not own the property in the fact that the disputed part of the site was omitted from the site in the case of the previous application for development in 2011, Ref. 2736/11. Full surveys / maps were exchanged in 2011 regarding same.
- The appeal is accompanied by a copy of the observation made to the panning authority by Angela Norton on behalf of Strayfern Limited. This submission raises concerns regarding the following additional issues:
  - The excessive scale and density and being out of scale with surrounding properties particularly those to the rear of Nos. 44-46 Capel Street.
  - That the height proposed has no regard for the existing residential upper floors at No.48 and would block light from these residential units,
  - That the lane is very narrow and one way. The development of an office would significantly increase traffic on the lane.
  - That the lane has been recently cobbled / restored by the council and the construction works would damage this surface.
  - That the development would be contrary to Policy FC41 of the Plan regarding development in ACAs.
  - That the description of the nature of development is misleading.



- The appeal is also accompanied by a number of documents / letters including the following:
  - Letter dated 8 July, 2018 to Dublin City Council from Angela Norton of Strayfern Limited stating that the Memorial of Indenture dated 26<sup>th</sup> July, 1997 submitted by the applicant has been superseded and should not be relied upon by the Planning Authority.
  - Letter dated 24<sup>th</sup> July, 2007 from Eoin O'Shea solicitor on behalf of the current applicant (Jas Kaminski) to Deirdre McGinley solicitor (client James Norton) setting out exchange proposal for parcel of land at rear of Nos. 47/48 Capel Street. This includes a map showing the area in question highlighted yellow. This area would appear to overlap with the application site which is the subject of the current appeal.

## 6.2. Applicant Response

The following is a summary of the main issues raised in the response submission received on behalf of the first party:

- That the grounds of appeal are legal in nature. It is submitted that these are matters that are outside of the remit of the Board and the Board should therefore dismiss these grounds of appeal.
- The provisions of s.34(13) of the Act are specifically noted – namely that a person may not be entitled solely by reason of a planning permission to carry out any development.
- That the grounds of appeal do not contain any other grounds that is relevant or which has substance in a planning context. It is required that the appeal be dismissed for lacking substance and being with vexatious intent.

## 6.3. Planning Authority Response

No response to the grounds of appeal are on file.

## 6.4. Observations

An observation has been received from TII. This requests that a condition in accordance with the adopted s.49 LUAS Cross City Development Contribution Scheme would be attached in the event of a grant of permission and if the proposed development is not exempt.

## 7.0 Assessment

7.1. The following are considered to be the main issues in the assessment of the subject appeal:

- Legal Interest, Validity of Appeal and Scope of Assessment
- Principle of Development
- Design, Scale and Layout
- Impact on Amenity
- Other Issues
- Environmental Impact Assessment
- Appropriate Assessment

### 7.2. Legal Interest, Validity of Appeal and Scope of Assessment

7.2.1. The basis of the case made by the third party appellant (Strayfern Limited) is that the company is the owner of part of the appeal site and that consent has not been given to undertake any development on these lands. The extent of the site that is in dispute relates to a narrow strip of land along the northern side of the site that extends as far east as Jervis Lane. The rebuttal of these appeal grounds essentially comprises an assertion that the issue raised is one of property ownership, that it is not a planning issue on which the Board can make a determination and that the appeal should be dismissed by the Board as being vexatious.

- 7.2.2. In my opinion two issues require consideration. The first is an overview of the information submitted to the Planning Authority and the Board regarding legal interest in the site. The second is consideration of the grounds of appeal, whether it should be dismissed and if not the scope of the assessment that is appropriate.
- 7.2.3. With regard to the documentation relating to ownership that is on file, the issue was raised by the first party appellants in an observation to the Planning Authority and was the subject of a request for further information. The response submitted to this request includes a drawing (Drg. AI00) that shows the title map overlaid with the application boundary. This indicates the red line boundary entirely within the ownership boundary. A memorial of indenture dated July, 1997 is also submitted that indicates that the first party has ownership of the area indicated on the submitted title map.
- 7.2.4. The third party appellants contend that the applicant has withheld information relating to contracts for the sale of this property to Strayfern Limited when requested for particulars of ownership by the Planning Authority. The appeal submission states that the submitted memorial of indenture dated July, 1997 is out of date and has been superseded. Copies of letters between solicitors for the parties (first and third party appellants) setting out the basis for an exchange of lands to the rear of Nos.47/48 Capel Street dating from 2007 are submitted in support of the third parties case. A document, dated May 2006, signed by James Norton (Strayfern Limited) and Jas Kaminski and associated map appears to indicate that a part of the northeast corner of the site was the subject of agreement for transfer from Mr Kaminski to Mr Norton.
- 7.2.5. The submitted information is not in my opinion such that it is possible for the Board to make a clear determination as to legal ownership of the site. Specifically, while there is indication in the May 2006 of agreement being reached between the parties for the transfer of parcels of lands, there is no follow up to the solicitor's letter of July 2007 which seeks to formalise any transfer. Similarly, no evidence in the form of land registry details or folios and associated maps have been submitted by the third party appellants to support the case made regarding ownership. While it is stated by the third party that the memorial of indenture submitted has been superseded, no updated version of this document has been presented to the Board. In such circumstances, and having regard to the provisions of the Development

Management Guidelines for Planning Authorities, I do not consider that it is clearly apparent that the first party does not have sufficient legal interest or consent to undertake the proposed development and that there is not therefore a basis for refusal of permission by the Board on these grounds.

- 7.2.6. With regard to the issue of the validity of the appeal, I note the case made by the first party. I also however, note the fact that the third party appeal is accompanied by a copy of the objection to submitted to the Planning Authority and that this objection raises valid planning issues relating, inter alia, to overlooking, residential amenity, scale and density and impact on the laneway and on the character of the ACA. Taken in conjunction with the issues raised regarding ownership, it is therefore my opinion that valid grounds of appeal have been raised and that it would not be appropriate for the appeal to be invalidated by the Board.
- 7.2.7. Given the nature of the proposed development, it is considered appropriate that some consideration would be given to the planning merits of the proposed development and the following sections comprise a de novo assessment of the merits of the proposed development with a focus on the issues raised by the third party appellant in the observations attached with the appeal submission.

### 7.3. Principle of Development

- 7.3.1. The appeal site is located on lands that are zoned Objective Z5 under the provisions of the Dublin City Development Plan, 2016-2022 with the stated objective '*to consolidate and facilitate the development of the central area, and to identify, reinforce, strengthen and protect its civic design character and dignity*'. Both the proposed office and residential uses are Permissible Uses on lands zoned Objective Z5 and are therefore acceptable in principle. Paragraph 14.8.5 of the Plan promotes the idea that there would be a dynamic mix of uses in areas zoned Objective Z5 and that this mix would occur both vertically and horizontally within developments. The proposed development would, in my opinion, be consistent with this aim.

- 7.3.2. Section 14.8.5 of the Plan states that the primary purpose of Z5 zoning is to *'sustain life within the centre of the city through intensive mixed use development' and 'to provide a dynamic mix of uses which interact with each other, help create a sense of community and which sustain the vitality of inner city both by day and night'*. The proposed mix of residential and office use spread vertically through the building with the other commercial, office and residential uses on the lane is in my opinion consistent with the vision for the zone.
- 7.3.3. The indicative plot ratio and site coverage levels for lands zoned Objective Z5 are between 2.5 and 3.0 and 90 percent respectively. The proposed development is consistent with these figures having a plot ratio of c.2.3 and a site coverage of c.70 percent.
- 7.3.4. I note that the third party raised concerns with regard to the description of the site and the public notifications being misleading. The description of the site refers to No.33 Jervis Lane North and to the fact that the site is to the rear of Nos. 47 and 48 Capel Street. I do not see that the notices are deficient and in any event the application was deemed to be valid by the Planning Authority.

#### 7.4. **Design, Scale and Layout**

- 7.4.1. The scale of the proposed development is significant at four storeys, however there is precedent for a similar or greater scale of development on the lane. Specifically, the adjacent building to the north located to the rear of Nos.49 and 50 Capel Street has an overall height of c.16.2 metres as against the c.13.8 metres to parapet level for the proposed development. To the east, the Wolfe Tone apartment development has a height of 14.4 metres to the parapet at the site boundary and an overall height of c.16.5 metres. In this context, the proposed height to the lane is considered to be acceptable in principle.
- 7.4.2. The design proposed comprises office accommodation of c.62 sq. metres at ground floor level. The layout of this accommodation and the access to the rear courtyard and bin storage area is considered to be acceptable. The proposed office use would help to animate and give activity to the lane during office hours, and I would not agree with the comments in the third party observation to the Planning Authority that

it would lead to additional traffic and congestion on the lane. No parking is proposed within the development and there is no parking available on the lane.

- 7.4.3. The proposed residential accommodation at upper floors is proposed to comprise three one bedroom apartments having a floor area of c.60 sq. metres each and which are dual aspect. The size and layout of the proposed residential units, including provision of storage and private amenity space areas, is considered to be acceptable and in accordance with the requirements of the development plan and the Departmental standards for apartment developments.
- 7.4.4. The elevation of the proposed development to Jervis Lane comprises a brick finish with aluminium cladding and windows. The proposed materials and presentation to the lane including the setting back of part of the frontage is considered to be consistent with the overall character of the area and to be visually acceptable. To the rear, the finish is also proposed to be brick with aluminium windows, aluminium capping to the parapet and recessed terraces at first to third floors with glass balustrade. These finishes are considered to be acceptable. In the event of a grant of permission it is recommended that details of materials and finishes would be submitted for the agreement of the Planning Authority. I also note that the submitted plans do not indicate any signage to the building and that it is not known who or what the end user of the ground floor unit would be. In the event of a grant of permission it is therefore considered appropriate that details of signage would be the subject of a separate application for permission.
- 7.4.5. With regard to scale, the site is located within an ACA which is based around Capel Street and which includes the lands to the rear on Jervis Lane. The main focus of the ACA is the principal street of Capel Street, however regard must also be had to the location of the site within an ACA. The scale of development proposed is such that the proposed development would be c.750mm lower than the parapet height of the main building at No48 Capel Street and c.2.5 metres lower than the maximum height of No.48. There would be no views of the proposed development from Capel Street. Given this subservient height, and the fact that the proposed development would be generally consistent with the existing and permitted building heights on Jervis Lane, I do not consider that the proposed development would have an adverse impact on the character of the ACA. It is therefore my opinion that the

proposed development would be consistent with Policy CHC4 of the development plan which seeks to protect the special interest and character of ACAs.

- 7.4.6. No.48 Capel Street is included on the Record of Protected Structures, (No.1177–house). The proposed development is subservient in height and overall mass to the main building at No.48 Capel Street. The rear elevation of the proposed development would be located such that there would be a separation of c.12.5 metres to the main rear elevation of the protected structure. This separation and the relative scales of development proposed are such that it is not considered that the proposed development would have an adverse impact on the character or setting of the protected structure at No.48 Capel Street.

## **7.5. Impact on Amenity**

- 7.5.1. The appeal site is located such that it faces onto the rear of properties on Capel Street. It is also located such that there is a limited separation between the site and the Wolfe Tone apartment development on the eastern side of Jervis Lane North. This separation to the east is c.5.4 metres at the widest point.
- 7.5.2. The potential for overlooking and shadowing impacts on surrounding properties was identified as an issue by the Planning Officer and further information regarding the impact of the proposed development on daylight and sunlight was included as part of the further information request issued. The response submitted in the form of a shadow analysis prepared by Niall D. Brennan and Associates Architects is not very clear as there is no existing situation illustrated for comparison purposes and it is not possible to clearly see the impact on the rear of the properties on Capel Street. What the submitted analysis does indicate is that there would be a loss of sunlight and daylight to residential units on the eastern side of the laneway in the evening period. This impact, while locally of some significance to the units opposite, would not be greater than the shadow impacts generated by the existing development located at the rear of No.49 and 52 Capel Street. Overall therefore, in terms of the impact on light to the existing apartments to the east, it is my opinion that the city centre location is such that some loss of amenity is acceptable and inevitable and that regard has to be had to the scale of development which has become established on the western side of Jervis Lane.

- 7.5.3. With regard to lighting impacts on the rear of existing properties on Capel Street, there would likely be some shadowing impacts in the morning period, particularly for the lower / first floor accommodation in Nos. 47 and 48. The separation between the proposed development and the rear of Nos. 47 and 48 is, however such that I do not consider that the impact on amenity in terms of loss of daylight and sunlight would be significantly negative. This separation is also such that I do not consider it likely that significant issues of overlooking would likely arise. Recessed balconies are proposed at the south east corner of the floorplan of the residential units and there would appear to be balconies to the rear of No.47 Capel Street that would be approximately 15 metres away. Subject to adequate screening to the balconies on the proposed development, I do not consider that significant issues of overlooking or loss of amenity would arise.
- 7.5.4. The separation between the east facing bedrooms in the proposed development and the Wolfe Tone Apartments on the eastern side of the lane would be c.7 metres when account is made for the setback proposed on the appeal site on foot of the revised layout submitted as further information. The Wolfe Tone development does not have windows at lower levels facing Jervis Lane North, and it is not clear exactly how the fenestration of the two developments would relate. However, given the city centre location of the sites and the lack of windows at lower levels in the Wolfe Tone development, together with the precedent set by other permitted developments on the western side of the lane to the norther of the appeal site, the proposed development is not considered such as to create a significant negative impact on amenity and to be acceptable.
- 7.5.5. The nature of the proposed uses comprising office and residential accommodation are not such that they would lead to noise or other emissions that would lead to a loss of amenity for existing residential or other uses in the vicinity of the site.

## 7.6. Other Issues

- 7.6.1. I note that an observation has been received from TII requesting that a condition in accordance with the adopted LUAS Cross City Development Contribution Scheme would be attached in the event of a grant of permission. The appeal site is located within the area identified in the LUAS Cross City development contribution scheme



and the form of development proposed is not such that it would be exempt from a requirement for a contribution under this s.49 contribution scheme. In the event of a grant of permission, it is therefore recommended that a condition requiring the payment of a contribution in accordance with the provisions of the adopted scheme would be attached.

7.6.2. The proposed development does not propose any off street car parking to be provided. Given the central location of the site including its proximity to the LUAS line and the restricted size of the site it is not considered appropriate that parking would be provided on site.

7.6.3. The development is proposed to be connected to the public water supply and drainage network. It is noted that there is no report on file from Irish Water, however the revised drainage layout submitted to the Planning Authority by way of further information is considered to be acceptable by the drainage division.

## **7.7. Environmental Impact Assessment**

7.7.1. Having regard to the scale of the proposed development, the nature of the uses proposed, the fact that it is proposed to be connected to the public water and drainage networks and lack of a clear pathway to European sites, 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.

## **7.8. Appropriate Assessment**

7.8.1. Having regard to the nature and scale of the proposed development and its location relative to Natura 2000 sites, no appropriate assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect either individually or in combination with other plans or projects on a European site.

## 8.0 Recommendation

- 8.1. Having regard to the above, it is recommended that permission be granted based on the following reasons and considerations and subject to the attached conditions.

## 9.0 Reasons and Considerations

Having regard to the Objective Z5 zoning objective for the area, to the scale and nature of the proposed development and its location relative to surrounding properties including the protected structure at No.48 Capel Street and the pattern of development in the area, it is considered that, subject to compliance with conditions below, the proposed development would not seriously injure the amenities of the area or of property in the vicinity, would not adversely affect the character or setting of the ACA in which it is located or any protected structures and would be acceptable in terms of traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 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 25th day of June 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. Water supply and drainage arrangements, including the disposal of surface water from the site, shall be in accordance with the detailed requirements of the Planning Authority.

**Reason:** In the interests of public health.

3. Prior to the commencement of development, details of all external finishes, including the screening to the proposed balconies, shall be submitted for the written agreement of the planning authority.

**Reason:** In the interests of visual amenity.

4. Notwithstanding the exempted development provisions of the Planning and Development Regulations, 2001 (as amended), no advertising signs (including any signs installed to be visible through the windows, advertising structures, canopies, flags or other projecting elements shall be displayed or erected on the building or within its curtilage, or attached to the glazing without a prior grant of permission.

**Reason:** In the interests of visual amenity and to protect the character of the ACA.

5. Proposals for an numbering scheme shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interest of urban legibility.

6. The developer shall facilitate the archaeological appraisal of the site and shall provide for the preservation, recording and protection of archaeological materials or features which may exist within the site. In this regard, the developer shall:
- (a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development, and
  - (b) employ a suitably-qualified archaeologist prior to the commencement of development. The archaeologist shall assess the site and monitor all site development works.

The assessment shall address the following issues:

- (i) the nature and location of archaeological material on the site, and
- (ii) the impact of the proposed development on such archaeological material.

A report, containing the results of the assessment, shall be submitted to the planning authority and, arising from this assessment, the developer shall agree in writing with the planning authority details regarding any further archaeological requirements (including, if necessary, archaeological excavation) prior to commencement of construction works.

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

**Reason:** In order to conserve the archaeological heritage of the area and to secure the preservation (in-situ or by record) and protection of any archaeological remains that may exist within the site.

7. Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

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

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

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

9. 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 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.

10. The developer shall pay to the planning authority a financial contribution of €8,147 (eight thousand one hundred and forty seven euro) in respect of LUAS Cross City 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. The application of any indexation required by this condition 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.

**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.

11. The developer shall pay to the planning authority a financial contribution of €17,981.11 (seventeen thousand nine hundred and eighty one euro and 11cent) 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. The application of any indexation required by this condition 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.

**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

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Stephen Kay  
Planning Inspector

10th December, 2018