



An
Bord
Pleanála

Inspector's Report ABP. 302507-18

Development	Permission to continue to operate the conference centre subject to the remaining conditions applying to the centre and without the need to reapply for permission in 3 years.
Location	Bonnington (formerly Regency) Hotel, Swords Road. Whitehall. Dublin 9
Planning Authority	Dublin City Council
Planning Authority Reg. Ref.	3353/18.
Applicant(s)	Regan Development Ltd.
Type of Application	Permission.
Planning Authority Decision	To Grant Permission
Type of Appeal	First & Third Party
Appellant(s)	Regan Development Ltd (First Party) Paul Filby
Observer	Peter O' Kelly
Date of Site Inspection	9 th January 2019
Inspector	Breda Gannon

1.0 Site Location and Description

- 1.1. The site is located at the Bonnington Hotel, Swords Road. Dublin. The hotel occupies a narrow elongated site, which opens out to the rear to accommodate a large surface car park. Access is directly off the Swords Road via a roadway that runs along the southern boundary of the site. The roadway also provides vehicular access to the adjoining Centra supermarket and Mc Gettigan's bar located to the west side of the hotel and residential schemes to the south and east.
- 1.2. The site is adjoined to the north by Highfield Healthcare private nursing home, to the east by the Grace Park Manor apartment complex and to the south by the Seven Oaks and Griffith Downs housing developments. The site is separated from the apartment complex to the east and the housing developments to the south/south east by a boundary wall which has been back planted with trees and shrubs.
- 1.3. The conference centre is contained within a flat roofed single-storey structure, located to the rear of the main hotel building. It's main glazed elements face towards the car park and it accommodates 3 no. sets of doors in addition to an access door located on the south elevation.

2.0 Proposed Development

- 2.1. The application is described as follows in the public notices submitted with the application;

'Permission was granted in June 2015 (Reg Ref 3757/14 and PL29N. 244496), for a period of 3 years to operate the conference centre at the Regency Hotel subject to conditions relating to a) the use and opening hours of the conference centre and b) the noise level not to be exceeded at the conference centre. The permission is to be reviewed in June 2018. Permission is now sought to continue to operate the centre subject to the remaining conditions in the permission applying to the centre and without the need to reapply again in 3 years time'.

3.0 Planning Authority Decision

3.1. Decision

The planning authority decided to grant permission for the development subject to 8 no. conditions. The decision includes the following conditions of note:

Condition No 2 - Planning permission shall apply for a period of 2 years after which the use shall revert to conference use only, unless prior to that date planning permission has been granted for the development for a further period.

Condition No 3 - The use of music or dancing at the venue shall cease on or before 01.00 and the conference centre shall not be used as a public dance hall, nightclub, public bar or venue for concerts for which a public dance hall licence is required.

Condition No 4 – Requires that a noise survey and assessment programme be undertaken to assess the impact of noise emissions arising from the operation of the conference hall for music and dancing events. It requires that the scope and methodology of this survey and assessment programme be submitted and agreed with the planning authority and that the results obtained be submitted for review at quarterly intervals over a period of two years.

Condition No 5 – Requires that the terms and conditions of the original permission issued under Reg Ref No 2719/11 and subsequently modified by An Bord Pleanála under PL 29N. 239389 shall be fully complied with, except where modified by this permission.

Condition No 6 - All entrance doors to the conference room shall be self-closing and maintained operational at all times.

Condition No 8 – Sets out the requirements regarding noise emissions from music, and when plant is in operation. It also sets out requirements in relation to odour emissions from the premises at sensitive receptors.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The **Planning Officer's** report notes that the conference centre has been in operation for c.6 years and this period has allowed the planning authority a reasonable period to consider the impact of the use, if any, on sensitive adjoining land uses. The Planning Enforcement Section has confirmed that there is no active noise complaint in relation to the use of the conference centre. The Air Quality Monitoring and Noise Control Unit has confirmed that a single complaint has been received in relation to the site in October 2017, but that the matter was not followed up by the complainant, following engagement.

Under the provisions of Condition No 6 of PL 29N.244496, the applicant was required to submit noise survey results on a quarterly basis to the planning authority. The applicant has only made available a total of 2 no. noise survey results over the three year period, dated 26th January, 2016 and 25th November, 2016, which constitutes non-compliance with the planning condition. There are concerns that the planning authority does not have adequate evidence of noise levels associated with the use over time, which would justify a permanent grant of permission. Having regard to the objections received and in order to ensure that there is an adequate evidence base to support a balanced decision on the long terms acceptability of the use, it is appropriate to allow for another temporary 2 year period, within which time the applicant shall be required to submit on a quarterly basis, noise survey results to the planning authority.

3.2.2. Other Technical Reports

The **Drainage Division** in their report of 24/7/18 raised no objection to the development subject to conditions.

The **Air Quality Monitoring and Noise Control Unit** raised no objection to the development subject to conditions.

3.3. Prescribed Bodies

None.

3.4. Third Party Observations

A number of submissions were received by the planning authority. The issues raised related to the following;

- Overdevelopment of the site.
- Non-compliance with planning conditions.
- Development is contrary to the Z1 zoning objective for the area.
- Inaccurate plans which do not show the full function capacity of the hotel.
- Inadequate car parking.
- Requirements in relation to noise surveys and assessment have not been met.

4.0 Planning History

The Planning Officer's report documents the planning history relevant to the current application as follows;

1. **Reg Ref No 2328/99 (ABP PL29N.117196)** – Extension to Regency Hotel. Condition No 3 stated that the conference/meeting rooms would be used for the stated purpose and not used as function rooms where music is played, or as dancehalls or discotheques, except with a prior grant of planning permission.
2. **Reg Ref No 4083/06 (ABP PL29N.220345)** - Permission sought for variations to previously approved development (Reg Ref 2328/99 ABP PL29N.117196) currently under construction, of an extension to the Regency Hotel. The duration of the permission was extended until 28th June 2007 (Reg Ref 2328/99x1). Under the proposal the approved conference rooms were relocated to ground floor level, the leisure centre was relocated to the basement and underground car parking was omitted. Surface carparking was proposed to be increased from 259 to 286 together with 8 no. coach parking spaces. The overall floor area of the extension was proposed to be reduced by 3359m². Condition No 2 of the Board's Order repeated the previous

controls on the use of the conference rooms/meeting rooms with a prohibition on music and dancing.

- 3. Reg Ref No 2719/11 (ABP PL29N.239389)** – Application for amendments to previously approved application for conference rooms. It sought to amend Condition No 2 of Reg Ref No 4083/06 which restricted the use of the conference rooms. Permission was sought to allow the use of the conference rooms as a venue where music and dancing is permitted in addition to their continued use as conference rooms. Condition No 2 of the Board’s Order permitted the change of use for a temporary period of three years after which the use should revert to conference use only, unless prior to that date planning permission has been granted for a further period. Condition No 3 required that music and dancing should cease on or before 01.00 hours and confined solely to use for functions (such as gala dinners) related to conferences being held at the venue, as set out in the submissions made in connection with the planning application.
- 4. Reg Ref No 3179/12 (ABP PL29N.241332)** – Permission granted for extension over the podium to the side of the conference/function room. Condition No 2 stated that the use of the proposed extension would be limited to ‘conference room’ use only, as previously granted under An Bord Pleanala appeal reference number PL29N.239389. Permission has been granted for an extension of time on this permission up to May 1st, 2023 (Reg Ref No 3179/12/X1).
- 5. Reg Ref No 3757/14 (ABP PL29N 244496)** -Permission sought for amendments to Condition No 2 & 3 in previously approved application Reg Ref No 2719/11 (ABP PL 29N.239389) for conference rooms. Condition No 3 of the Board’s Order granted permission for a temporary period of 3 years, after which the conference centre would revert to conference use only, unless prior to that period planning permission has been granted for a further period. Condition No 4 required that music/dancing should cease at or before 01.00 hours and that the conference centre shall not be used as a public dance hall, nightclub, public bar or venue for concerts for which a public dance license is required. It also restricted the number of music/dance events to one per week.

5.0 Policy Context

5.1. Development Plan

The operative development plan is the **Dublin City Development Plan 2016-2022**. The site is located in an area zoned Z1 -Sustainable Residential Neighbourhoods with an objective '*To protect, provide and improve residential amenities*'. Hotels are '*open for consideration*' within this use zone.

Section 6.5.3 of the plan 'Tourism and Visitors' states that 'Tourism, including business tourism and the attraction of international conferences and events, is one of the key economic pillars for the city'. It recognises that it is important to continue to develop tourism infrastructure such as visitor accommodation and other facilities (Policies CEE12 and CEE13).

5.2. Natural Heritage Designations

None.

6.0 The Appeal

6.1. Grounds of Appeal

First Party

The appeal is against Condition No 2 and 4 of the planning authority's decision.

The grounds of appeal are as follows;

- The Bonnington (formerly the Regency) Hotel is a long established hotel located on the Swords Road. In 1999 a planning application was made to build a significant extension to the east side with bedrooms on the first floor and conference, meeting rooms and other facilities on the ground floor. It was made clear that the conference room would not be used as a night club or discotheque. The permission included a condition that required that the

conference and meeting rooms be used for their stated purpose and not used for uses where music is played or as dancehalls or discotheques. The condition was re-imposed in a subsequent permission in 2006.

- The condition and its interpretation remained a cause of confusion and difficulty for the hotel, residents and the planning authority regarding functions held in the hotel without music and dancing (e.g poker classic).
- In an attempt to resolve the difficulty a further application was lodged in 2011. It proposed that music or dancing be allowed in the conference room. The permission (2719/11) was granted by the planning authority and upheld by the Board (PL 29N. 239389). The permission was granted for a period of 3 years to allow the matter to be reviewed and two noise conditions were imposed and a condition confining uses solely to functions relating to conferences being held at the venue.
- A further application was made in 2014 to extend the permission and to amend Condition No 2 to remove the need for 3 year reviews and Condition No 3 relating to use. The planning authority decided to grant planning permission. Condition No 2 was upheld and Condition No 3 was amended such that the use of music or dancing would cease on or before 01.00 hours and that the conference centre would not be used as public dance hall, nightclub, public bar or venue for concerts for which a public dance hall licence is required. The decision and condition set by the planning authority were upheld by the Board (PL 29N. 244496). The Board required that a noise survey and assessment programme be undertaken to assess the impact of noise emissions arising from the operation of the conference hall for music and dancing events.
- The conditions have been complied with. A noise monitoring programme was agreed with Dublin City Council and tests were carried out every quarter for the past 3 years and submitted to DCC. They have confirmed compliance with the condition. No test has produced a negative result.
- The premises has been monitored since the last permission and is now due for review. The monitoring has indicated that the conference centre has satisfactorily met the terms of the condition and the need for 3 year reviews

should be omitted. There is no justification to require a re-application every 3 years.

- In view of this performance, permission is sought to remove the 3 year element of the condition and fix a noise level which can be monitored by the planning authority, if required. The conditions relating to use, opening hours and noise level can remain in place but it is requested that the need to re-apply every 3 years be removed.
- Attention is drawn to the planning officer's report on the current application which refers to a lack of acoustic studies carried out over the last 3 years and the need to impose another two year period within which these studies can be carried out.
- Notwithstanding the content of the planning report, the noise assessment survey and reports were carried out and are enclosed. These were submitted to the planning authority.
- All of the tests show no negative outcomes at the boundaries of the site for adjoining residential properties. Accordingly, it is considered that there is sufficient information contained within the reports included with the appeal to allow An Bord Pleanála to grant a permission, that does not include a time limiting condition and a requirement to carry out noise tests every quarter.
- Points out to the Board that bookings for conferences, functions etc., are made one, two or three years in advance. A hotel cannot operate on the basis that it has no certainty as to the continued use of part of its facilities and this creates operational uncertainty.
- All the tests have shown that there are no adverse impacts on adjoining residential properties.
- There is no enforcement action pending regarding noise from the Conference centre.

Third Party

- It would appear that ongoing non-compliance with noise conditions to the detriment of residential amenity is deemed reason to extend planning permission for a further trial period.

- The hotel has breached and is still not compliant with the original An Bord Pleanála conditions on noise control, unauthorised use of conference facilities, installation and maintenance of self-closing doors. There has been little regard for adjoining residents in terms of the intrusion of internal function noise and the control of patrons.
- Condition No 4 of PL 29N. 239389 included a provision that the number of permitted music/dancing events should not exceed one per week. This condition has not been complied with and it is noted that it is removed from the conditions attached in the planning authority's recent decision to grant permission. It is unclear how the removal of this restriction could possibly protect residential amenity. Unconditional use of the facility would be detrimental to residential amenity as already considered by the Board. The Board is requested to reinstate this provision, if the centre is not reverted to conference use only.
- Whilst enforcement of planning conditions is not within the remit of the Board, the history of planning enforcement orders on record on this site, together with ongoing non-compliance with noise conditions and control of hotel patrons to the detriment of residential amenity, draws into question the competence of the management.

The appeal is supported by a number of documents including correspondence with DCC regarding breach of conditions and a copy of appellant's submission to the planning authority in respect of the current application.

6.2. Planning Authority Response

The First Party appeal states that noise surveys were carried out on seven separate occasions between 2015 and 2018 pursuant to Condition No 6 of An Bord Pleanála Ref PL29N. 244496 and that these were submitted to the planning authority. It also outlines a further noise survey carried out on 31st August 2018. It is stated that the noise survey reports demonstrate the acceptability of the use, without any detrimental impact on the amenity of adjoining residential occupiers.

A review of the records relating to application Ref No 3757/14 (ABP Ref No 29N.244496) was undertaken as part of the assessment of the current application and it indicates that 2 no. submissions were made over the 3 year period. In reaching a balanced decision on the application, the Planning Authority determined that it did not have adequate evidence of noise levels associated with the use, which would justify a permanent permission. As such, it was considered appropriate to grant a further temporary period, within which time the applicant would undertake to submit further noise surveys to be reviewed by the planning authority on a quarterly basis.

The Air Quality Monitoring and Noise Control Unit have reviewed the noise survey reports submitted as part of the appeal and stated that in order to comply with the relevant condition, it is necessary to determine both the background noise level (LA90) in the absence of music and the specific noise level (LAeq) in the presence of music or other specific entertainment noise.

The first report submitted dated 18/12/15 establishes both noise levels, broadly demonstrating compliance with the condition, but none of the remaining reports provides this information. These reports do not provide the establish 'without music' baseline against which the 'with music' scenario is to be compared. The results, therefore, do not provide sufficient information to allow Dublin City Council to adequately review if Condition No 5 of PL29N.239389 has been historically complied with.

The planning authority seeks to have Condition No's 2 and 4 upheld by the Board with a view to a determination on the acceptability of permanent use being reached following an additional monitoring period.

With regard to the Third Party appeal, the Air Quality Monitoring and Noise Control Unit notes that a report was submitted by the applicant which was approved by DCC for the purposes of complying with Condition No 4 of Reg Ref 2719/11. The report details measures carried out to ensure compliance with the condition and ultimately the noise control conditions referred to in Condition No 5 of the permission.

Condition No 5 of the Board's decision used a background noise level defined as an LA90 in the absence of music referenced against a noise level in the presence of music defined as an LAeq and a difference between both not to be exceeded.

This permission was granted for a period of 3 years and a new permission 3757/14 and Condition No 6 required the applicant to submit an acoustic consultant's report for approval, with the results of monitoring submitted quarterly to DCC for a period of 3 years. The report was approved by DCC but only two sets of results were submitted which is insufficient to determine compliance.

The most recent permission (3353/18) stipulates noise conditions that differ from Condition No 5 of 2719/11. This condition uses an ambient noise level defined as LAeq in the absence of music, referenced against a noise level in the presence of music defined as an LAeq and states that there should be no increase. Inaudibility of the music would ensure compliance with this condition. This condition is considered more appropriate to ensure the music noise level will be inaudible to residents and not a noise nuisance.

6.3. **Observation**

The following observations are made by Mr Peter O'Kelly who resides at Seven Oaks.

- The adjoining residents have no objection to the conduct of the proper business of conferences and meeting being undertaken in the hotel. The planning conditions applied to the use of the conference venue do not injure the lawful use of the facility and does not go against the Tourism and Visitor policies of the development plan, as referred to in the planning officer's report.
- The hotel is located in an area zoned Z1 and the late night facilities and antisocial behaviour associated with its use is contrary to this zoning provision.
- The planning officer lists the various objections received with respect to the development including non-compliance with previous conditions, inadequate parking and incorrect plans, all of which should have been expanded upon in the planning report.
- The applicant has purposely omitted a relevant planning history of the site and key developments and retention works associated with the conference centre. The history of enforcement notices is not listed.

- The hotel has failed to comply with Condition No 3 of the current permission, which has been documented in many forms over recent years. A public dance hall licence for the conference area was granted by the Courts despite objections from local residents.
- The Board is requested to expand this condition to add more clarity on the nature of the events which can take place. Previously the condition specified that any music and dance conducted in the conference centre would be restricted to an association with a bone-fide conference event. The hotel circumvented this by claiming a two person get together was a valid conference.
- The applicant is trying to suggest that local residents purchased their homes with full awareness of the hotel and its operations. The original Crofton Hotel bears no resemblance to what exists today.
- There are various statements relating to the planning history submitted by the applicant which are false and misleading regarding the conference centre and its use and the absence of clear reference to Reg Ref No 4083/06 where major alterations were made to the plans when construction was at a very advanced stage.
- Whilst the applicant states that there is no enforcement action pending, there have been many attempts to get DCC to act on the operations of the hotel and its late night functions.
- Whilst the applicant argues that bookings for conference etc., are made one, two or three years in advance, where the hotel is conducting bone fide conferences and events, there is no problem taking such bookings and the conditions that are in place have not prevented the hotel from booking and conducting unapproved events.
- In the plans submitted, the applicant has purposely omitted the intervening development of the Mc Gettigans sports pub which has added to the 'function' capacity of the hotel.
- The site does not meet the car parking capacity required for the number of hotel rooms. The building of the conference centre resulted in 101

underground spaces being abandoned. The conference centre, leisure centre and the new McGettigans pub have not considered allocation of spaces resulting in overspill into Seven Oaks estate.

- Planning application 3179/12/X1, now before DCC, is seeking an extension of planning permission to a development that will expand the conference area floor space. This previously approved development coupled with the opening of McGettigans pub has greatly increased music event capacity at the hotel.
- The attached drawings show the size of the original Crofton Hotel footprint and how footprint and facilities have expanded.
- The applicant continues to operate in contravention of the conditions attached to the permission. It has continued to hold music and dance events in the conference area over the past three years and has done so under the umbrella given to it by the Courts, despite being contrary to the planning conditions.
- Any development in this area should seek 'to protect, provide and improve residential amenities' in accordance with the zoning objective. The applicant wishes to have the review period removed as this would be irreversible, removing the only effective control the planning authority has on the ongoing conduct and use of the conference centre. This control has a positive effect on the amenity of residents and presents no onerous restriction on the hotel provided it is running proper and approved events.
- The actions of the applicants over the last three years reinforces the necessity for proper oversight by the planning authority and the Board is requested to continue the condition requiring a three year review.

6.4. Further Responses

6.4.1. First Party Response to Third Party Appeal

- The condition to limit the life of the permission to 2 years is considered unreasonable in the context of carrying out noise tests throughout the period of the last permission and the fact that any hotel takes bookings for conferences etc up to three years in advance. No hotel can be expected to

operate a facility with a possible cessation in the use of the facility two years away.

- The appellant has repeated in this appeal the grounds that he raised in previous appeals without success. He has also raised these issues in the licensing courts without success. The relevant points were addressed in the First Party appeal and the Board is requested to consider this as containing the information to respond to the points raised.
- Over the past three years acoustic tests have been carried out every quarter and no test has produced a negative outcome. This monitoring is related to activity in the conference centre and is an objective rebuttal of the claims of the appellant.
- In view of this performance, permission is sought to remove the two year element of the condition and fix a noise level that can be monitored by the planning authority, if needed.
- All the tests show no negative outcomes at the boundaries of the site for adjoining residential properties, despite historical claims by the applicant.

6.4.2. First Party Response to Observers Submission

The submission attempts to show that the use of the hotel has intensified over the years, which is not the case. There are three main areas within the ground floor (apart from the foyer and reception area). Their use is as follows:

- The area formerly used as a breakfast area is not laid out as a bar.
- The area formerly in use as a function room is now the breakfast area.
- The conference area retains its original configuration and use.

There is therefore no intensification of the use within the hotel as claimed. The floor areas of these three locations within the hotel remain the same.

6.4.3. Third Party Response to First Party Appeal

- The planning history and building of the conference centre as portrayed in the appeal is misleading and false. The conference centre was opened with an unauthorised music function in breach of ABP Condition No 3. The centre was

opened 12 days after the granted of planning permission by DCC and did not wait for ABP's decision.

- PL 29N.117196 clearly gave permission for individual public spaces, separated by floor levels and dividing walls, not one huge function area, which this planning application is attempting to attain.
- Whilst the original Crofton Hotel predated the surrounding housing estates, the existing hotel footprint does not.
- Does not accept that there is any ambiguity in the wording of the conditions and this is a very weak excuse for the continuation of events in breach of planning permission.
- Concerns with regard to the methodology used in the noise surveys. The criteria was not to compare internal and external noise but external readings when a function was taking place and when it is not.
- Non-compliance with Condition No 4 which limits the number of events to one per week and music finishing at 01.50 hours.
- There have been many incidences on non-compliance with noise conditions and it has proven non-productive to make a complaint to DCC.
- The Board is requested to seriously consider the hotels attitude to planning conditions.
- The hotel has put great store on the submitted noise surveys and compliance to win this appeal. They prove the opposite and why permission should not be granted.
- The centre should revert to conference use only. The Bonnington Suite is large enough and available for any required music function and this should not have any adverse impact on hotel trade.
- Should the Board decide to grant planning permission for a further period, it is requested that the conditions be restated to limit the timing and frequency of music events and that noise reduction measures as previously set out are implemented, with appropriate wording that cannot be misconstrued.

- Requests that consideration be given to the fact that there has been ample time given for the hotel to abide by conditions of usage and to make them work.

6.4.4. Third Party Response to Observer's Submission

- Agrees that the Planning Officer should have expanded further on the issues raised in the objections regarding non-compliance with conditions, inadequate parking and incorrect plans. These matters and Mc Gettigan's Pub which is currently under enforcement procedure E0896/18 should have been a major consideration relating to detrimental impacts on adjacent residential amenity.
- Permission has been granted under 3179/12/x1 to extend the centre further. The graphics presented by Mr O' Kelly clearly show the scale of the development which constitutes overdevelopment and without adequate carparking.
- It is unclear why the part of Condition No 4 of PL 29N.244496, which limits the number of dance/music events to one per week has been omitted in the current conditions.

7.0 Assessment

- 7.1. The Third Party appeal and the observer's submission raise issues regarding the scale of the existing development, pending future development, timelines for compliance with conditions, non-compliance with conditions, operations of Mc Gettigan's pub, lack of enforcement, inaccurate drawings and inadequate car parking. These are matters which lie outside the scope of the current application and over which the Board has no jurisdiction. Should any inaccuracies exist between the development as it currently exists and that permitted by the various planning permissions relating to the site, this is entirely a matter for the planning authority.
- 7.2. The current proposal does not involve any works, it is concerned solely with the use of the conference centre. It seeks permission to permit it to continue to be used as it currently operates, without the need for 3 year reviews. The applicant also wishes to be relieved of the requirement to carry out noise surveys.

- 7.3. There is a significant planning history relating to the site, which is summarised as follows for the information of the Board. Conference and meeting rooms were originally permitted under Reg Ref No 2328/99 (PL.29N117196) subject to controls on use, with no events permitted with music and dancing. A subsequent application for amendments to the previously approved plans contained a similar condition Reg Ref No 4083/06 (PL29N 220345). The condition governing the use was relaxed somewhat under Reg No 2719/11 (PL29N.239389) and music and dancing was permitted associated with functions related to conferences (such as gala dinners), with a requirement that music/dancing would cease on or before 01.00 hours. The permission was subject to a temporary period of 3 years after which time the use would revert back to conference use only. This was to allow the development to be reviewed after a period in operation.
- 7.4. Under Reg Ref 3757/14 - PL29N. 244496, permission was again granted for a temporary period (Condition No 3) and with a similar requirement that events with music/dancing should cease at 01.00 hours and that the conference centre would not be used for events for which a dance hall licence is required. It included additional controls limiting the number of events to one per week and introduced a requirement for noise surveys to be carried out, with quarterly results submitted to the planning authority over the three year lifetime of the permission.
- 7.5. The life of this permission has now expired and under the terms of the permission, the conference centre must revert to conference use only, unless permission is granted for a further period. The current application is submitted to comply with Condition No 3 and seeks permanent ongoing use of the conference centre as a venue where music and dancing is permitted. Having assessed the proposal the planning authority decided to grant permission subject to conditions. The applicant contends that two of the conditions are not warranted and should be removed by the Board. The appealed conditions are No's 2 & 4.
- 7.6. Under the provisions of Condition 2, permission is granted for a temporary period of two years, after which the conference centre is required to revert to conference use only. Condition No 4 repeats the requirements of the previous permission regarding noise surveys with results submitted to the planning authority on a quarterly basis.

- 7.7. It is the First Party's contention that the development is fully compliant with the conditions of the previous permission and that there is no need for a time limit to be applied to the permission. It is argued that this condition creates ambiguity regarding the continued use of the conference centre, which impacts on its future operations. It is further submitted that there is no need for continued noise monitoring as the conference centre is operating with no adverse impacts on adjoining residential property. The third parties contend that the conference centre is not compliant and should revert to conference use only and that a further trial period should not be facilitated to ensure that the amenity of their dwellings is protected.
- 7.8. The hotel site is surrounded by residential development which includes houses and apartments to the south and east and a nursing home to the north. As noted in the submissions the original hotel, which had a much smaller footprint, was in existence prior to the development of the housing schemes. I accept that the scale of the hotel and its functions have increased over the years and with it the potential for increased impacts on adjoining residents. The houses in Seven Oaks are the closest residential development and are located immediately to the south of the access road. All of the day to day operations associated with the hotel from guest arrival/departure, deliveries etc are conducted via this access road and it is impossible for the hotel to operate without some level impact on the adjacent houses.
- 7.9. The general operations of the hotel appear to be accepted by local residents and it is the late night activity and disturbance associated with events in the conference centre that gives rise for complaint. Under the terms of the previous permission the applicant was afforded an opportunity to demonstrate that the use of the conference facility for events with music and dance could be operated without adverse impacts on the amenity of adjoining residents. Whilst the First Party contends that it has complied with the requirements of the permission and submitted noise survey results at regular intervals, this position is not accepted by the planning authority, who have also identified deficiencies in the noise reports appended to the appeal. The applicant has not, therefore, provided evidence to the satisfaction of the planning authority that the permanent use of the conference centre will not impact on the residential amenity of adjacent dwellings.

- 7.10. I consider that a balance must be achieved between the protection of the residential amenity of adjoining property and facilitating the hotel to maximise its functions. No evidence has been produced to date to suggest that the conference centre has, or, has not been operated in accordance with the conditions of the permission. I consider that the planning authority have adopted a very reasonable approach to the matters raised by permitting the applicant further opportunity to demonstrate that the conference centre can operate without adverse impacts on the more sensitive land uses to the south and east. This will allow the planning authority to assess whether or not the permanent on going use of the centre for events with music and dance should be permitted.
- 7.11. The First Party is also seeking the removal of Condition No 4, considering that it is no longer necessary. It is contended that the noise results have indicated that the conference centre is capable of holding dance and music events without significant adverse effects on adjoining residents. The planning authority in its assessment noted the submission of just two noise reports, which is considered entirely inadequate to demonstrate compliance. It also noted the inadequacies associated with the majority of the noise results, which failed to consider conditions with, and without, music in place. I accept that the conclusion reached by the planning authority, that the permanency of the use cannot be established in the absence of further assessment. There is an inter-relationship between this and Condition No 2, which requires that it stay in place.
- 7.12. The third parties have queried why the planning authority have removed the requirement that only one event with music/dance be permitted in the centre as required by the previous permission. They have requested that in the event that the Board does not limit the centre to conference use only, that this condition be re-imposed. The planning authority assessment does not provide any insight into why this requirement was removed. Having regard to the failure of the applicant to comply with the conditions of the previous permissions to the satisfaction of the planning authority, I consider that it is reasonable that this be re-instated, to protect the amenity of adjoining property.

8.0 Appropriate Assessment

8.1. Having regard to the location of the development within a serviced built up area, the nature of the development and the separation distance from Natura 2000 sites, I consider that the proposed development either alone, or, in combination with other plans or projects, would not be likely to have significant effects on a European site, in view of the sites' conservation objectives and that, therefore, a Stage 2 Appropriate Assessment and the submission of a Natura Impact Statement is not required.

9.0 EIA Screening

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

10.0 Recommendation

10.1. Having considered the contents of the planning application, the decision of the planning authority, the provisions of the development plan, the grounds of appeal and the responses thereto, my inspection of the site and my assessment of the planning issues, I recommend that permission for the development be granted for the reasons and considerations set out below.

11.0 Reasons and Considerations

Having regard to the planning history of the overall hotel development, the established use of the site and the pattern of development in the area, it is considered that, subject to the compliance with the conditions set out below, the proposed development would not seriously injure the residential amenities of property in the vicinity and would, therefore, be in accordance with the proper planning and sustainable development of the area.

12.0 Conditions

1. This permission shall apply for a period of two years from the date of this order. The use of the conference centre shall then revert to conference use only, unless prior to the end of the period, planning permission has been granted for a further period.

Reason: In the interest of the proper planning and sustainable development of the area, and that the impact of the development may be reviewed having regard to the circumstances then prevailing.

2. The use of music or dancing at the venue shall cease on or before 01.00 hours and the conference centre shall not be used as a public dance hall, nightclub, public bar or venue for concerts for which a public dance hall licence is required. The number of permitted music/dancing events shall not exceed one per week.

Reason: In the interests of clarity and the protection of the residential amenities of property in the vicinity.

3. A noise survey and assessment programme shall be undertaken to assess the impact of noise emissions arising from the operation of the conference

centre for music and dancing events. The scope and methodology of this survey and assessment programme shall be submitted to, and agreed in writing with the planning authority within one month of the date of this order. The results obtained from the programme shall be submitted for review at quarterly intervals to the planning authority over a period of two years. The developer shall carry out any amendments to the programme required by the planning authority following this review.

Reason: In the interests of clarity and the protection of the residential amenities of property in the vicinity.

4. All entrance doors to the conference room shall be self-closing and maintained operational at all times of functional use of the room of which it forms part.

Reason: To help in the containment of noise, in the interest of residential amenity.

5. (a) Music played on the premises shall be inaudible at the nearest noise sensitive premises. For this purpose the LAeq level measured over 5 minutes, when measured in a habitable room, garden or open space at a time when an outside area would be expected to be used, when entertainment is taking place in the premises shall show no increase when compared with the representative LAeq (5 minutes) level measured from the same position, under the same conditions and during a comparable period with no entertainment taking place.

(b) Music played on the premises having a tonal quality shall be inaudible at the nearest noise sensitive premises. For this purpose the Leq level measured over 5 minutes, in the 50Hz to 160Hz third octave bands inclusive, measured in a habitable room, garden or open space at a time when an

outside area would be expected to be used, when entertainment is taking place in the premises, shall show no increase when compared with the representative Leq measured over 5 minutes in the 50Hz to 160Hz third octave bands inclusive, measured from the same position, under the same conditions and during a comparable period with no entertainment taking place.

(c) The use of any broadcast medium including amplification, televisions, radio or loudspeakers shall be so installed and used so as to ensure that the noise from the use of this equipment is inaudible at the nearest noise sensitive receptor.

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

Breda Gannon
Senior Planning Inspector

12th January, 2019