



An
Bord
Pleanála

Inspector's Report ABP 302980-18

Development	Demolition of office building and construction of a 22 storey office and hotel building.
Location	Tara House, 2-16 Tara Street Dublin 2.
Planning Authority	Dublin City Council.
Planning Authority Reg. Ref.	3794/18.
Applicant(s)	Tanat Ltd.
Type of Application	Permission.
Planning Authority Decision	To Refuse Permission.
Type of Appeal	First & Third Party.
Appellant(s)	Tanat Ltd. An Taisce.
Observer(s)	Kennedy Taverns Ltd. Ciaran Kennedy. Alstead Securities Ltd
Date of Site Inspection	28 th January, 2019.
Inspector	Breda Gannon

Contents

1.0 Site Location and Description	3
2.0 Proposed Development	3
3.0 Planning Authority Decision	5
3.1. Decision	5
3.2. Planning Authority Reports	5
3.3. Prescribed Bodies	7
3.4. Third Party Observations	8
4.0 Planning History.....	10
5.0 Policy Context.....	12
6.0 The Appeal	17
7.0 Assessment.....	42
7.1. Introduction	42
7.2. Principle of the development.....	43
7.3. Design, height, scale and mass of the building	45
7.4. Visual Impact.....	47
7.5. Impact on Protected Structure.....	52
7.6. Roads & Traffic	54
7.7. Other matters	56
8.0 Environmental Impact Assessment.....	57
9.0 Appropriate Assessment.....	76
10.0 Conclusion	82
11.0 Recommendation	82
12.0 Reasons and Considerations	83

1.0 Site Location and Description

- 1.1. The site is located between the city centre to the west and the docklands to the east and to the south of the River Liffey in Dublin 2. It comprises an urban land block (c 0.2 ha) that is bounded to the north by George's Quay, to the east by Tara Street and to the south by Poolbeg Street. The site lies immediately adjacent to Tara Street station and includes part of the station concourse.
- 1.2. The site accommodates Tara House, a former office block that is now vacant. The building has a low single-storey frontage onto Tara Street/Poolbeg Street rising to three-storeys. The building would be demolished as part of the proposal. The central portion of the site is an empty yard which is accessed off Poolbeg Street
- 1.3. The site includes the lands immediately east and west of Kennedy's public house, (trading as the 'workshop'). The four-storey building and Protected Structure which fronts onto George's Quay is not part of the application site. It stands as an isolated structure with its gable walls exposed on both sides.
- 1.4. The wider area is one which is evolving and regenerating with new uses and taller buildings occurring alongside more traditional buildings. To the east lies the George's Quay Plaza and the Ulster Bank Group Centre, with Ashford House and the Irish Times Building to the south. The Loop Line Bridge with its elevated rail line spans the River Liffey and dominates the streetscape in the immediate vicinity of the site. At a further remove, the 17-storey Liberty Hall building occupies an imposing landmark position on the opposite side of the Liffey to the northwest, with the eighteenth century Custom House addressing the waterfront to the north.

2.0 Proposed Development

The development comprises the following;

- the demolition of the existing Tara House building and associated buildings at 2-16 Tara Street Dublin,
- the construction of a 22 storey (88m) landmark office and hotel development with a rooftop restaurant over two levels of basement accommodation with an overall gross floor area of 16,557 sq.m. The new building would accommodate hotel accommodation in a podium element extending from the

1st to 4th floor. Office accommodation would be provided in the higher element from the 5th to 20th floor. A rooftop restaurant is proposed at 21st floor level. At ground floor level, the hotel restaurant, entrance foyer and office entrance foyer are accommodated,

- the development also proposes 2 no. triple height structures to either side of the adjoining Kennedy's Public House, with no physical works to the protected structure. The additional flanking structures accommodate café/restaurant/retail floorspace of c.74sq.m.
- the upgrade to the hard and soft landscaping of the existing public concourse to Tara Street station entered from George's Quay as well as the replacement of the existing ticket booths with new ticket machines within the existing station concourse area,
- the provision of a new public thoroughfare linking the existing station through to Tara Street, significant upgrade of the public realm including public footpaths on George's Quay, Tara Street and Poolbeg Street. Surface bike parking is proposed along the new widened public footpath to Tara Street.
- the basement level would provide 16 no. car parking spaces, 151 no. bicycle spaces, showers/lockers, plant and storage area. Vehicular access to the basement will be via a car lift from Poolbeg Street. An ESB substation and switch room would be provided onto Poolbeg Street.
- outdoor terrace of c.225sq.m. to be provided at 5th floor (6 storey) of the podium element of the building. A roof terrace is also proposed on the southern elevation of the 18th floor (19th storey) and on the western elevation of the 21st floor (22nd storey) to serve the restaurant.

The application is supported by a range of documents which includes a letter of consent from CIE and Dublin City Council's Environment & Transportation Department raising no objection to the inclusion of land within their control for the purpose of the application.

The application is also supported by an EIAR.

3.0 Planning Authority Decision

3.1. Decision

The planning authority decided to Refuse permission for the development for the following reason;

Having regard to the prominent and sensitive location of the subject site, by reason of its important location within the historic City core fronting onto the River Liffey, its proximity to the Custom House and having regard to Policy SC7 and SC17 of the Dublin City Development Plan 2016-2022, which seeks to protect and enhance the skyline of the inner city and to ensure that all proposals for mid-rise and taller buildings make a positive contribution to the urban character of the inner city, the proposed tower will have a significant detrimental impact due to its scale and bulk on the setting and character of the Custom House, the River Liffey Conservation Area, and the O'Connell Street and Environs Architectural Conservation Area.

Furthermore, the proposal would, by reason of visual intrusion, have a significant and detrimental impact on a number of important views and vistas in the city including College Green and the Trinity College Campus, as well as Lord Edward Street, the Five Lamps, Granby Row, Frederick St North, Parnell St North, Henrietta St, Kildare St and Harcourt Street. The proposed development would, therefore, seriously injure the urban character and visual amenities of the historic city core and would be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The **Planning Officer's** report of 18/10/18 notes the highly sensitive location of the proposal within the historic City core, fronting onto the River Liffey, its proximity to the Custom house and its strategic importance as a major public transport node in the City centre. Whilst it is considered that there are many positive aspects associated with the proposed development including enhancement of the public realm, economic benefits arising from the regeneration of a brownfield site, the increase in permeability with the creation of a concourse between George's Quay and Tara Street, the potential to tie in with a future MetroLink station, the scale of the

podium level in relation to the site and existing building line, and the creation of office and hotel space for the City, the scale, height and massing of the proposal cannot be supported.

Whilst it is acknowledged that the applicant has made some modifications to the proposal in response to the previous refusal (Reg Ref No 2856/17 & PL 29N.248941), the proposal remains broadly similar to the previous design and notwithstanding any questions regarding the quality of the architectural design proposed, or the recent National Planning Framework, the scale and bulk of the scheme cannot be reconciled in this sensitive location due to the significant negative visual impact on the setting and character of the Custom House, the River Liffey Conservation Area and the O'Connell Street and Environs Architectural Conservation Area. The proposal would also have a significant and detrimental visual impact on the views and vistas from College Green and the Trinity Street Campus, as well as Lord Edward Street, the Five Lamps, Grandby Row, Frederick Street North, Parnell Street North, Henrietta Street, Kildare Street and Harcourt Street.

3.2.2. Other Technical Reports

The **City Architect's** report of 12th October 2018 notes that the proposal is for a very significant development that will have a substantial impact on the immediate context of Tara Street, the Quays and the greater city. The proposal has an adverse impact on the setting and status of the Customs House, downplaying the significance of its north façade, understating the importance of the building and the impact of the proposed structure on its profile. With regard to the Visual Impact Assessment, it is considered that the applicant's matrix of significance, used to define and rate the visual impact, devalues and injures the urban character of the historically important areas of the city. The chapter visualising views from the west along the River Liffey dramatically understates the significance of this approach, the importance of the city skyline and the impact of the proposed structure on its profile. The massing and design quality of the proposed building on the Trinity College campus results in an unacceptably negative impact on the skyline of the most intact historic space in Dublin.

For reasons of scale and proportion, architectural quality, impact on the immediate and city wide context and the visual impact on historic views, it is recommended that permission be refused for the development.

The report also states that the concerns raised regarding public realm and streetscape in the previous proposal still stand. Other unresolved issues relate to access, circulation, servicing, maintenance, uses and crossover of use (public and service uses). It would be expected that once these issues are considered in future refinement of the design, the likely outcome will be the need for further significant revision of the proposal.

The **City Archaeologist's** report of 24/9/18 notes that the proposed development is located on the border of the Zone of Archaeological Interest in the Dublin City Development Plan, and within the border of the Zone of Archaeological Constraint for the Recorded Monument DU018-020 (Dublin City), which is listed on the Record of Monuments and Places and is subject to statutory protection under Section 12 of the National Monuments (Amendment) Act, 1994. There are no objections to the proposal subject to conditions which include archaeological monitoring of all demolition and sub-surface works.

The **Drainage Division** in their report of 14/9/18 raised no objection to the proposal subject to standard type conditions.

The **Transportation & Planning Division Report** of 11/10/18 raised serious concerns in respect to a number of matters including the proposal to provide 2 no. car lifts to serve 16 no. car parking spaces from Poolbeg Street, the location of the proposed loading bay on Poolbeg St, impact of planting measures and the provision of cycle parking stands on pedestrian movement Tara Street. It was recommended that further information be requested on these matters and that clarification be sought on the treatment of surfaces within the public realm which are outside the ownership of the applicant.

3.3. **Prescribed Bodies**

Transport Infrastructure Ireland and the **Irish Aviation Authority** in the respective reports of 20/9/18 and 21/6/18 raised no objection to the development subject to conditions.

The **National Transport Authority** stated in their report of 20/8/18 that they were satisfied following a review of material and discussions with TII that the proposal is capable of being progressed in a manner that is compatible with the current MetroLink proposals. It further noted that the MetroLink project is subject to final route selection, design and planning consent.

An Taisce in their submission of 26/9/18 noted that the proposed building is overwhelmingly similar in scale, form and design to the previously comprehensively refused proposal. The decision was forthright and unequivocal, and the refusal schedule cannot be construed to invite or allow for resubmission of an extremely similar development as proposed. The development currently proposed should, furthermore, be refused permission on the basis of;

- Massive intrusion on the established character of the city centre.
- Failure to protect important views and view corridors.
- Incompatibility with Policy SC17.
- Conflict with assessment criteria for higher buildings.
- Shadow on Custom house.
- Inconsistency with 22-storey refusal precedent for Liberty Hall.
- Adverse effect on Conservation Area.
- Adverse impact on important Protected Structure.
- Conflict with George's Quay LAP provision regarding Trinity College.

The additional planning documents referred to by the applicant do not contain additional provision above that found in the site-specific LAP, which addresses the fundamental issues of the previous refusals.

3.4. **Third Party Observations**

Submissions in support of the proposal were made to the planning authority from the Irish Hotel Federation, Dublin Chamber, the Convention Centre Dublin, the Irish Tourism Federation, the IDA, CIE, Knight Frank and John Deering. The perceived benefits include the following;

- The development will deliver much needed hotel and office accommodation in the city, to facilitate tourism, economic activity and employment growth. Improving capacity will strengthen Dublin's competitive position against intense international competition.
- Upgrades to surrounding streetscape, public realm and the creation of more active street frontages will act as a catalyst for the regeneration of this city quarter.
- The mixed use element of proposal is of significant advantage to the area.
- Improved DART passenger experience at Tara Street which will be beneficial in terms of tourism for the city.
- The development will maximise the potential of nearby public transport links such as Tara Street and the Luas.
- High rise element is to be welcomed. While all buildings over 8 storeys should be carefully considered for their impact on the skyline, taller buildings add to and become emblematic of the city. Potential to create a south central hub in the city.
- The proposed building would be a good counterpoint to Liberty Hall on a pivotal bend in the River Liffey.
- The proposal is a far superior design response to the subject site than that permitted in the extant permission.

Submissions in opposition to the proposal were received from Irish Georgian Society, An Taisce, Valerie O' Shea, Griffin Lynch, Pauline Cadell on behalf of BLEND Residents Association and Downey Planning on behalf of Ciaran Kennedy, Kennedy's Tavern & Alstead Securities. The issues raised are similar to those raised in the Third Party appeal and observations submitted;

- Similarity to previous proposal which was refused permission.
- Design, scale, mass and height of the building.
- Visual impact on a very sensitive and historic area of the city centre.
- Impact on important buildings, conservation areas, protected structures and designated views.

- Incompatibility with the policies of the development plan/conflict with George's Quay LAP.
- Impacts on residential amenity.

4.0 Planning History

The planning history relevant to the subject site is as follows:

1. **Reg Ref No 0948/01 (PL 29S. 128164)** – Permission granted in 2002 to Iarnrod Eireann for the redevelopment of Tara Street Station consisting of a new station concourse with a 10 storey office development and retail unit. Kennedy's Public House did not form part of the application. During the course of the application the proposal was modified providing an overall reduction in the floor area of the office development onto Poolbeg Street; the height of the development onto Tara Street was reduced by 7.8m; the overall height of the building onto Poolbeg Street and Tara Street was reduced to 44.9m. The overall height of the curvilinear part of the building was retained at 60.8m at the north apex and 57m at the south apex. A four-storey projecting glass element was incorporated into the corner treatment at Poolbeg Street and Tara Street. Other redesigned elements resulted in the overall area of the building above the station concourse being reduced from a gross area of 17, 605sq.m. to a gross area of 16, 248 sq.m.
2. **PL 29S.PA0012** – Permission granted to Iarnrod Eireann for a development described in the public notices as a 15 storey development comprising an increased station concourse, station accommodation, retail and office over ten levels.

During the course of the application, the Board advised the applicant that a building of the scale, height, outline and siting proposed would be visually intrusive in the streetscape and riverscape, adversely affecting the setting of the Custom House, a protected structure of primary national importance, and which would detract from the visual character and amenities of the city centre. The Board considered that the layout as designed at ground floor level, in particular the office lobby, unduly restricted accessibility and circulation between the station concourse and the public realm. The Board advised the

applicant that it would consider granting permission following the submission of revised particulars, plans and drawings to address their concerns.

The applicant was advised that the height of the building (while maintaining its current profile) should be reduced as follows; the main part of the building currently indicated at an apex height of 60.8m at Georges Quay should be reduced to an apex height of 49.1m, the circular core element should be reduced to 42.825m, the rectangular office element on Tara Street should be reduced in height from 11 storeys down to 31,95m (8 storeys), the plant area indicated at roof level over the entire top floor should be restricted to the rear part of the building not north of grid 'k' and the uppermost floors of the building forward of this gridline should contain similar accommodation with similar glazed façade treatment to the lower office floors, and finally that the lobby linking the office core to the street should be relocated from the Tara Street/Poolbeg Street corner to Poolbeg Street and all of the ground floor area currently indicated as 'waiting area' and 'office lobby' should be incorporated into an enlarged station concourse including additional entrances to Tara Street and at the Tara Street/Poolbeg Street corner. Revised plans reflecting these requirements were submitted to the Board and permission was granted for a 10 year period from 1/01/2010. This permission remains live.

3. **Reg Ref No 2856 (PL29N.2489410)** – Permission refused on 15th March, 2018 for a development broadly similar to that proposed under the current proposal including the demolition of the existing building on the site and the construction of a 22 storey (88m) over three level basement, office and hotel development with a rooftop restaurant. The proposal also included an upgrade of the public concourse to Tara Street rail station and a new public thoroughfare linking the two uses.

There are also a number of applications in the wider area which are relevant to the subject proposal. These include;

1. **Reg Ref No 2407/15 (PL29S.245492)** – Permission granted for the development of building from five to nine storeys over basement level to accommodate a mixed use office, café, retail/restaurant scheme on a site of

0.24 hectares at No's 13-18 City Quay and provide a new civic space to the north of the site at City Quay.

2. **Reg Ref No 3036/16 (PL.29S.247907)** – Permission granted for the demolition of Apollo House and Lone Stone Pub on Townsend Street and the construction of a commercial office building ranging in height from 5 to 11 storeys (tenth floor removed following further information). The development would also include two café/restaurant/retail units and one bar/café/restaurant, roof terraces at fifth, sixth, eighth and tenth floor levels and a new civic space onto Poolbeg Street adjoining Hawkins House.
3. **Reg Ref No 3037/16 (PL.29S.247912)** – Permission granted for the demolition of Hawkins House and construction of a commercial office building ranging in height from 6 to 10 storeys. The development would include café/restaurant/retail unit uses and a new civic space between Poolbeg Street and Hawkins Street adjoining Screen Cinema/College House site.

5.0 Policy Context

5.1. National Planning Framework -Project Ireland 2040

- 5.1.1. The National Planning Framework which was published in 2018 is a strategic plan to guide development and investment out to 2040. It is envisaged that the population of the country will increase by up to 1 million by that date and the strategy seeks to plan for the demands that growth will place on the environment and the social and economic fabric of the country. It sets out 10 goals, referred to as National Strategic Outcomes.
- 5.1.2. **Under National Strategic Outcome 1** (Compact Growth), the focus is on pursuing a compact growth policy at national, regional and local level.

With regard to Dublin it states;

'Dublin needs to accommodate a greater proportion of the growth it generates within its metropolitan boundaries.... At a metropolitan scale, this will require focus on a number of large regeneration and redevelopment projects, particularly with regard to

underutilised land within the canals and the M50 ring and a more compact urban form, facilitated through well designed higher density development.

National Policy Objective 11

In meeting urban development requirements, there will be a presumption in favour of development that can encourage more people and generate more jobs and activity within existing cities, towns and villages, subject to development meeting appropriate planning standards and achieving targeted growth.

National Policy Objective 13

In urban areas, planning and related standards, including in particular building height and car parking will be based on performance criteria that seek to achieve well designed high quality outcomes in order to achieve targeted growth. These standards will be subject to a range of tolerance that enables alternative solutions to be proposed to achieve stated outcomes, provided public safety is not compromised and the environment is suitably protected.

5.1.3. The Urban Development and Building Height - Guidelines for Planning

Authorities (December 2018) build on the wider national policy objective to provide more compact forms of urban development as outlined in the National Planning Framework. It is acknowledged that increasing building heights has a critical role to play in addressing the delivery of more compact growth in urban areas, particularly cities and large towns.

Specific Planning Policy Requirement (SPPR) 1 states

In accordance with Government policy to support increased building height and density in locations with good transport accessibility, particularly town/city cores, planning authorities shall explicitly identify, through their statutory plans, areas where increased building height will be actively pursued for both redevelopment, regeneration and infill development to secure the objectives of the National Planning Framework and Regional Spatial and Economic Strategies and shall not provide for blanket numerical limitations on building height.

5.2. Development Plan

The operative development plan is the **Dublin City Development Plan 2016-2022**.

The site is located in an area zoned Z5: City Centre, with an objective 'To consolidate and facilitate the development of the central area and to identify, reinforce, strengthen and protect its civic design character and dignity'.

The primary purpose of this use zone is to sustain life within the centre of the city through intensive mixed-use development. The strategy is to provide a dynamic mix of uses which interact with each other, help create a sense of community, and which sustain the vitality of the inner city both by day and night (Section 14.8.5).

Permissible uses include office, hotel, and restaurants.

The Z5 zoned area is identified as the key employment location within the city (Section 2.2.4).

Core Strategy - It is an overarching aim 'to consolidate and enhance the inner city in order to strengthen its crucial role at the heart of the capital city and the city region'.

Shape and Structure of the City -In terms of the Shape and Structure of the City the plan (4.5.1.1.) sets out a number of policies;

SC7: – To protect and enhance important views and view corridors into, out of and within the city and to protect existing landmarks and their prominence.

Fig 4 outlines Key Views and Prospects (Indicative).

SC16: - To recognise that Dublin City is fundamentally a low-rise city and that the intrinsic quality associated with this feature is protected whilst also recognising the potential and need for taller buildings in a limited number of locations subject to the provisions of a relevant LAP, SDZ or within the designated strategic development regeneration area (SDRA).

SC17: - To protect and enhance the skyline of the inner city, and to ensure that all proposals for mid-rise and taller buildings make a positive contribution to the urban character of the city, having regard to the criteria and principles set out in Chapter 15 (Guiding Principles) and Chapter 16 (development standards). In particular, all new proposals must demonstrate sensitivity to the historic city centre, the River Liffey and quays, Trinity College, the cathedrals, Dublin Castle, the historic squares and the city

canals, and to established residential areas, open recreation areas and civic spaces of local and citywide importance.

Section 4.5.41 sets out Dublin City Council's approach to taller buildings. It is policy to provide for taller buildings in limited locations identified in the Building Height in Dublin map. Georges Quay is identified as allocation where a tall building could be located (above 50m).

City Economy and Enterprise – recognises that Dublin must develop with sufficient critical mass in order to compete at an international level and fulfil its role as the key economic driver of growth for the Greater Dublin region and the country as a whole. Relevant policies include CEE5 and CEE11, which recognise the need for high quality and dense development to drive productivity and innovation; the supply of commercial space as a means of increasing choice and competitiveness and the redevelopment of obsolete office stock in the city to consolidate employment.

Development Standards - Section 16.7.2 of the plan sets out **Height Limits and Areas for Low-Rise, Mid-Rise and Taller Development**. It also sets out the Assessment Criteria for Higher Buildings.

The requirements for **Infill Development** are set out in Section 16.2.2.2, where it is noted that it is particularly important that proposed development respect and enhances its context and is well integrated with its surroundings, ensuring a more coherent cityscape.

Built Heritage and Culture - The policies in relation to Protected Structures are set out in Section 11.1.5.1. The policies in relation to Conservation Areas are set out in Section 11.1.5.4. These policies seek to protect the structures of special interest which are included in the Record of Protected Structures (Volume 4 of the Plan) and the special character of Conservation Areas.

Relevant policies include the following;

CHC1 - Preservation of the built heritage of the city.

CHC2 – Protection of the special interest of protected structures.

CHC4 – Protection of special interest and character of Conservation Areas.

Table 16.1 and Table 16.2 set out the car and cycle parking standards for various uses.

5.3. Georges Quay LAP 2012

The Georges Quay LAP 2012 was extended in June 2017 to 2022. Four character areas are identified in the LAP and the subject site is located within the 'Office Zone', characterised by large floor plate, single (office) use buildings, most with inactive ground floor frontages in structures significantly taller than the surrounding structures. The zone is identified as the most visually prominent section of the study area due to the height and bulk of the office buildings and the views afforded to them from the Liffey corridor.

The plan identifies three key site/development areas which includes the Tara Street Station site. The key objectives listed for the site are as follows;

- The LAP seeks a new public plaza to the station concourse which in turn responds to a new pedestrian route through Hawkins House site.
- Provide a tall landmark building with large commercial space, with potential of up to 22 storeys (88m), subject to design and visual assessment.
- Widen footpath to Tara Street and Poolbeg Street to improve public realm.
- Integrate Kennedy's pub (a protected structure).
- New rail station and plaza to include bike parking.

It is recognised in the LAP that the redevelopment of the Tara Street urban block presents an opportunity to provide a positive visual focus in a quality landmark building. The provision of a taller building at Tara Street Station is advocated for the following reasons;

- To serve as a distinctive landmark building providing identity for a key transport node within the wider city landscape.
- To act as a visual counterpoint to Liberty Hall.
- To serve as a twin urban landscape or 'gateway' in tandem with Liberty Hall, marking the transition between the traditional city core and the docklands to the east.
- To act as a termination of long distance views on a pivotal turning point on the River Liffey by the Loop Line Bridge.

- To provide a more generous public realm that incorporates an accessible passenger concourse to accommodate increased passenger numbers.

5.4. Natural Heritage Designations

None.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. First Party

The First Party appeal states that substantial design changes have been incorporated into the development to address the previous reason for refusal. The applicant has also consulted with CIE and has confirmed a timeline for the delivery of upgrades to the existing Tara Street Station. The applicant has also engaged in detailed design discussions with the NTA and TII regarding the proposed MetroLink Station immediately to the south of the site, which will provide a key public transport interchange between the MetroLink and DART.

The area will become the only interchange between the two rail lines, making the subject development an even more significant transport node in the city centre. It is therefore a unique location within the city centre and in terms of accessibility provides an opportunity to create an integrated mixed-use scheme in connection with the proposed public transport interchange. It is appropriate and in accordance with Government policy to respond by providing for development of greater height and density at this location, as specifically provided in the George's Quay LAP.

It is considered that the previous reason for refusal is unjustified given the substantial re-design proposed and the significant enhancement of planning policy guidance to support urban consolidation, high density and greater building heights in locations well served by public transport.

The Board is requested is requested to consider the proposed development in accordance with the overarching national policies and objectives, the development plan, the Georges Quay LAP and the strategic importance of the location of the

subject site adjoining a major transportation hub, the existing Tara Street DART Station and the proposed MetroLink Station.

Dublin City Development Plan

The appeal also considers the proposal under the provisions of the development plan and the George's Quay LAP, both of which contain specific objectives for developments which increase commercial activity in the city particularly at public transport nodes, promote tourism, redevelopment of brownfield sites and the provision of tall buildings in key locations within the city. It is considered that the development will directly contribute to a number of these key objectives. It will deliver a unique high quality, mixed use development on a brownfield site in the city centre, which will add to the enhancement of the services sector, promote tourism, improve economic attractiveness for international investors and employers, enhance the regeneration of a key site exceptionally served by public transport, will upgrade Tara Street station concourse and will provide linkages and improvements to public realm.

With regard to taller buildings, it states (section 4.5.4.1) that buildings of over 50m are acceptable in key locations at major transport hubs such as the Docklands, Connolly, Heuston and George's Quay, where the site is located. While the development plan recognises the importance of the generally low rise character of the City, it acknowledges that exceptions are warranted in limited locations subject to further detail being provided in a LAP. The subject site is designed for a taller building of up to 88m in the George's Quay LAP and is, therefore, compliant with the relevant provisions of the development plan on building height.

Georges Quay LAP

The proposal is also consistent with the provisions of the George's Quay LAP. It promotes the area as an attractive location for high quality new commercial development and identifies Tara Street station as a location for a landmark building of up to 88m or 22 storeys in height. The proposed development addresses each of the objectives set out in the LAP for the provision of such a landmark building in this location. It is considered that the redesigned development, although visually present in a number of key views throughout the city, does not create a negative visual impact on the wider environment. It is considered that the proposed development is fully compliant with the key relevant policies of the LAP.

With regard to the George's Quay area of the city, it is noted that a non-statutory draft plan was prepared by Murray O' Laoire Architects for Dublin City Council in 2008. It informed the subsequent preparation of the George's Quay LAP 2012. It included a detailed visual assessment of a 22m storey tall building on the Tara Street site including photomontages from key viewpoints in the city as well as a shadow analysis. Dublin City Council had therefore full knowledge of the impact of a 22 no. storey building in deciding to adopt the 2012 LAP. It is considered that the decision to refuse permission on the basis of visual impact on key views is inconsistent with the policies and objectives of the LAP given that a detailed visual assessment was already carried out. This is further explained in the enclosed statement by Sean O' Laoire in supporting this appeal.

National Planning Framework 2040/ Urban Development & Building Height Guidelines

The appeal considers the proposed development in the context of the *National Planning Framework 2040* and the *Urban Development and Building Height Guidelines 2018*, which advocate more compact development, maximising existing uses on urban sites, the use of higher buildings to achieve higher densities in appropriate city centre locations, the benefits of reusing/redeveloping previously developed land, and, developing within the existing urban footprint utilising existing sustainable mobility corridors/networks. The proposal is considered to be in accordance with these policy measures and guidance.

Planning History

The appeal documents the planning history relevant to the site, and requests that the Board have regard to the significant design changes have been included in the redesign of the building since the previous decision. The proposed design has been revised to respond to the architecturally sensitive area. The HJL Design Report submitted as part of the appeal outlines the design changes proposed as part of the application. The proposed design of the building has also been assessed by Richard Coleman, City Designer who has concluded that the proposed development does not adversely impact on the visual amenity of the surrounding area. The appeal provides a description of the significant changes that have been proposed and it is concluded that the modifications to the scheme specifically address the Boards previous

concerns. It is considered that the proposed development is materially different to that previously proposed and that the Board have sufficient grounds to reconsider their previous decision and grant permission for the development.

It is noted that the second part of the Board's refusal relates to the provisions of the George's Quay LAP. The appeal documents show how the proposed development complies with each of the objectives for the subject site in the LAP. It is noted that the revised proposal provides for a significant public plaza central to the development, which will act as a new pedestrian concourse linking the existing Dart station with the proposed development and the surrounding area including the Hawkins House pedestrian desire line and proposed MetroLink Station at Poolbeg Street. Full details of the MetroLink Station and the relationship with the subject development is set out in the application drawings.

It is further noted that there is an extant permission relating to the site (PA0012) with a ten year life, which can be implemented up to 2020. This provided for the demolition of Nos 2,4,6, and 8-16 Tara Street and the construction of a new 20,990 sq.m 15- storey development. It is likely that this permitted development will proceed to construction if the current proposal is not permitted.

Grounds of Appeal

It is requested that the Board consider the proposal in accordance with the overarching national policies and objectives set out in the National Planning Framework, the Urban Development and Building Height Guidelines, the George's Quay LAP, the Dublin City Development Plan and the strategic importance of the location of the subject site adjoining a major public transportation hub, the existing Tara Street station and the proposed MetroLink station. The proposal is considered to be materially different in terms of design and planning context to the previous development.

In terms of *Height and Visual Impact* the appeal notes that despite the recommendation to refuse permission, that the planning authority's acceptance of a 22 storey building in this location is a significant change in its previous position. The Inspector was also supportive of the previous development and having carried out a detailed visual assessment concluded that the proposed development would not be visually intrusive or impact on the character and architecturally sensitive areas of the

city. It is acknowledged that the Board did not accept the Inspector's recommendation and accordingly the proposal has been significantly amended in terms of detailed design to address the previous concerns of the Board. The height, design and visual impact of the development is further addressed in the reports by HJL Architects and Richard Coleman appended to the appeal.

The proposed development at Tara Street is considered to be fully compliant with the height policy and numerical restriction of the Dublin City Development Plan 2016-2022 and the George's Quay LAP. The development plan currently states that George's Quay is an area for a potential high building of 50+m, and the George's Quay LAP further enhances this statement by providing for an objective to facilitate a 22 no. storey (88m) building on the subject site. The planning policy is, therefore, in place to facilitate the proposed development.

The appeal details how the proposed development accords with the detailed assessment criteria for higher buildings set out in the *Urban Development and Building Height Guidelines* including proximity to high quality public transport connectivity, particularly key public transport interchanges or nodes; the resilience of locations from a public access and egress perspective in the event of a major weather, emergency or other incident; the ecological sensitivities of the receiving environment; and the visual, functional, environmental and cumulative impacts of increased building heights. It is considered that the proposed development is compliant with the requirements of the guidelines. The provision of a landmark building on the site is strongly supported by the guidelines, which encourages increased density and building heights in appropriate city centre locations and in particular at major public transport interchanges.

The support demonstrated in the Planning Officer's report to the significant improvements to the *public realm* and station concourse proposed as part of the current application is also noted. It acknowledged that the proposal would significantly enhance the area and create a high quality public realm at one of the most trafficked areas of the city in terms of pedestrian flows. It would create a high quality civic space which will be of national importance, having regard to the high levels of activity in the area at the proposed major public transport interchange in the city for MetroLink and DART. A letter from CIE setting out CIE's priorities for future

improvements and upgrades to Tara Street station, addresses DCC previous concerns in this regard.

The proposed development will deliver a hotel and significant office accommodation which will cater for a c. 2000 workforce. It will provide high quality office accommodation on this centrally located brownfield site, which will add to economic growth and regeneration in line with compact urban growth principles. It will provide much needed tourist accommodation, which will increase the tourism economy of the city. The proposed development would be located at the most important public transport interchange in the city, between the DART and MetroLink, and as such would provide a landmark of 22 storeys to assist in the reinforcement and contribution to a sense of place within the city centre in accordance with the new guidelines.

It is noted in the appeal that the plans for *MetroLink* were released in May 2018 and comprises the development of a north south urban railway service that will run along the busy corridor between Swords and Sandyford, connecting key destinations including Dublin Airport and the city centre along the 26km route. The proposed alignment runs beneath the subject site with a proposed station to the south. It will provide the only interchange in the city centre between the DART and the proposed MetroLink.

The proposed development of the site for hotel and office accommodation which will provide for a new station concourse and significantly improved public realm in the area is critical to cater for the increased passenger numbers and to create an environment that will cater for the proposed MetroLink station.

Sunlight and Daylight

Detailed analysis of the impact of the development on the Custom House was submitted as part of the planning application. It noted that the proposed development will result in additional overshadowing of the Custom House in the winter months only, when the sun is low in the sky and the shadow environment in the city is dense. The shadows cast during the winter months are limited in duration due to the slenderness of the building and the rate at which the shadow cast passes over the building. As such it is considered that the impact is minor. An assessment was carried out to compare the previously permitted development on the site with the

proposed development. The study indicated that the permitted development had a much greater impact on the Custom House in terms of the extent and duration of overshadowing of the building.

Shadow diagrams are attached which represent the worst case scenario during the winter months and show the permitted versus the proposed scheme for reference.

Roads & Traffic

A detailed response to the issues raised by the Road & Traffic Department is provided in the report prepared by CS Consulting, submitted as part of the appeal response. It is considered that the roads and traffic arrangements submitted as part of the planning application are appropriate for the subject site.

Third Party Observations

The main issues raised relate to the following;

- Failure to address the previous refusal reasons.
- Visual impact of the development on the character of the city.
- Impact on surrounding properties.

The majority of these items were raised as part of the appeal process on the previously refused application. The concerns have been addressed as part of the planning application and explained in detail in the application and the appeal statement and enclosures.

City Architects Report

It is the opinion of the City Architect that the proposed development will impact on the surrounding context of the area. In response to the impact on visual amenity, a further detailed assessment of the visual impact of the building has been prepared by Richard Coleman, City Designer. The full report is submitted as part of the appeal. It is considered that it adequately addresses the points raised in the reason for refusal.

The City Architect also states that the functionality of the building remained unresolved. This matter was addressed during the oral hearing with respect to the previous proposal. The City Architect's views in this respect were not reflected in the Board's decision on the previous application.

It is considered that sufficient detail has been submitted to enable the Board to have a full understanding of the operation of the building. The applicant and scheme architect are fully satisfied that the proposed building will function as intended to a high standard. As such it is considered that the proposed development has responded and addresses all of the issues raised in the previous planning application and planning permission should be granted on that basis.

Conclusion

- It is concluded in the appeal that the proposed development accords with the provisions of the Dublin City Development Plan 2016-2022 and the George's Quay LAP 2012, which specifically provides for a building of the height and form proposed on the subject site. The proposed development is therefore a plan led scheme and is consistent with the vision for the city as set out in the statutory plans.
- There has been a significant change in policy relevant to the subject site since the previous refusal. The National Planning Framework, the Urban Development and Building Height Guidelines and the MetroLink project have all been announced or adopted.
- The proposed development is in accordance with the recent policy objectives and will provide for significant enhancement to the overall area providing for a number of beneficial outcomes for the city in terms of economic activity, tourism, significant improvements to the public realm, regeneration of a key city centre site adjacent to a major public transportation interchange and will provide for a unique landmark to the city skyline in accordance with the George's Quay LAP.
- The proposed design of the building has been re-considered and revised to address the previous reasons for refusal specifically in terms of visual impact and massing. The planning authority has acknowledged that a 22 storey building is acceptable in this location,
- The applicant has obtained confirmation from CIE on the proposed upgrade works to the existing Tara Street station in conjunction with the proposed development and timelines surrounding these upgrades.

- It is submitted that there have been significant design changes, policy changes and changes in opinion particularly with regard to the acceptability of a 22 storey building at this location since the previous reason for refusal on the site.
- The Board is requested to overturn the decision of Dublin City Council and grant permission for the proposed development which is consistent with the proper planning and sustainable development of the area and the statutory planning framework nationally and for the subject site.

The appeal is supported by the following documentation:

- Appendix 1 - Decision of Dublin City Council
- Appendix 2 – Townscape, Landscape, Heritage and Visual Impact Response to refusal prepared by Richard Coleman City Designer.
- Appendix 3 – Architectural Statement prepared by HJL Architects.
- Appendix 4 – Cronin Sutton Consulting Traffic and Transport Report.
- Appendix 5 – Note from Paul Finch, Editorial Director, The Architectural Review.
- Appendix 6 – Note from Des Mc Mahon, Architect.
- Appendix 7 – Note from Sean O’ Laoire, Architect.
- Appendix 8 – ARC Daylight Sunlight Analysis on Custom house.
- Appendix 9 – Model of Proposed Development prepared by City Models.

6.1.2. **Third Party Appeal**

The appeal by **An Taisce** notes that a major consideration in the appeal is the outcome of a previous application refused by both Dublin City Council and the Board (PL29S.248941). Given that this is a substantially similar application in scale and impact, there is an opportunity for the Board to amplify as well as uphold the previous grounds of refusal. The detailed grounds of refusal of two significant applications affecting the historic Georgian core of the city centre should be assessed with regard to relevance to the Tara Street applications. In the case of

these decisions, there are considerations which could be added to a refusal decision on the Tara Street application.

The appeal notes the Board's 2015 refusal on the National Children's Hospital (PL28N.PA0024) which included as refusal grounds *'The proposal would result in a dominant visually incongruous structure and would have a profound negative impact on the appearance and visual amenity of the city skyline'*. This specific ground of refusal should be applied to the subject development. The adverse impact on the O'Connell area was also cited and this consideration remains entirely applicable to the current application.

Reference is also made to the Board's 2012 refusal for the demolition of Liberty Hall (PL29N.240350). It included in its grounds for refusal *'it is considered that the scale and, in particular the height of the development as proposed, would be unacceptably dominant in the city, would be visually intrusive in the streetscape and riverscape and would seriously injure the amenity of the city and its skyline'*.

The Liberty Hall refusal specifically refers to the impact 'riverscape'. The Tara Street development is of similar height to the rejected Liberty Hall scheme and is located in a key area of riverscape in the Georgian core of the city. Adverse impact on the riverscape should be included in the reasons for refusal in the current proposal.

There are no changes in circumstances warranting a reconsideration of the refusal of the proposal. Holding an oral hearing on the current proposal would be a waste of time and resources.

6.1.3. **Planning Authority Response**

No response to the grounds of appeal were submitted by the planning authority.

6.1.4. **Observations**

1. Kennedy Tavern's Ltd

An observation was received from Downey Planning on behalf of Kennedy Taverns Ltd. The observer's property at No 10 Georges Quay (Kennedy's public house) is located on lands immediately adjoining the proposed development and as such is considered to be directly affected by the proposed development. The grounds of objection are as follows:

Similar design – the design of the development has not changed significantly and the treatment of the protected structure, while modified, remains of poor quality with no positive impact on this key riverside, city centre site.

Contravention of the George's Quay LAP – the LAP requires that all new development proposals should respect and reflect the traditional narrow plots and frontage widths where they exist and maintain the fine grained character of such areas. It also requires that developments are to be appropriately designed in order to protect, integrate and compliment the historic character and setting of the area.

The proposed development will have a detrimental impact on Kennedy's public house, and negatively impact on the character and historical setting of the protected structure. The residential and commercial amenity of the property will be compromised by the proposed development.

Scale of the proposed development – the excessive scale and height of the proposed development will negatively impact on the property and the surrounding area by reason of visual intrusion, overlooking, nuisance and lead to overbearing and overshadowing impacts.

Overshadowing – the sunlight and daylight report confirms that the shadow cast by the building will extend across the River Liffey throughout the day during the spring, summer and autumn months and will negatively impact on observer's property. The daylight/sunlight report submitted in support of the current proposal is the same as that submitted in support of the previous application and is indicative of the insignificant changes that have occurred since the previous application.

Impacts on Protected Structure – There are serious concerns over how the proposed development will impact on the structural integrity of observer's property. The proposal includes a two level basement and significant foundations to support a 22 storey building. The substantial groundworks associated with the proposed development has the potential to impact on the integrity and structural stability of the building.

Inclusion of Kennedy's public house on submitted drawings – Whilst the public notice states that no physical works are proposed to the protected structure, some of the submitted drawings suggest otherwise. It is difficult to determine the extent of the

proposed works. Part of the proposed development is proposed along the boundary wall of observer's premises.

Urban design considerations – Under the provisions of the George's Quay LAP, it is a primary objective for all developments located with the Tara Street Urban Block to adhere to Tara Street Objective No 4 – '*To closely integrate elements of Kennedy's public house in any design proposal*'. This is not achieved as part of the proposal and the exclusion of the building from the overall application will constrain any future proposals to encourage integration as part of the block.

The site is located within one of the most strategic, historic and sensitive locations in Dublin city. Whilst the height of the building is permitted, the proposal will have a significant impact on key views and prospects. When viewed from an east-west perspective along the Liffey, in particular, the proposed form is wide and sits heavily on the city skyline due to massing. This solid mass does not respond well to its surrounding context and does not create an elegant form worthy of landmark status. The proposal fails to comply with Policy SC7 and SC17 of the development plan.

The previous proposal was refused due to conflict with these objectives and it is considered that the previous reasons for refusal apply equally to the current proposal as it does not differ substantially in terms of scale, height, visual impact, bulk and massing.

2. Ciaran Kennedy

An observation was received from Downey Planning on behalf of Ciaran Kennedy who has a residential premises at No 10 Georges Quay (Kennedy's public house), immediately adjoining the proposed development.

- The minor revisions such as minimal setbacks have not reduced the scale, bulk or mass of the development or the impact on Mr Kennedy's home.
- Outstanding issues remain regarding Mr Kennedy's property. The applicant has no legal consent to the proposed add on's to the premises and would therefore not be able to implement a permission.
- The proposal seeks the development of two flanking wings, of triple height, either side of Kennedy's public house to accommodate retail/restaurant and café uses. It appears from the drawings that of the triple height flanking wings,

only the ground floor of such will be utilised for retail/restaurant/café uses, leaving the upper floors underutilised. No active uses are proposed at 1st and 2nd floor level and no integration at ground or upper floors with Kennedy's.

- The proposal will have significant effects on the character of the Protected Structure and the existing context, in terms of scale, bulk, height, massing and design. While it has been altered internally and externally, the building retains many of its original 19th century features including cornices, windows and their surrounds, the staircase, fire place, door and the shopfront. The treatment of the Protected Structure while modified is still of poor quality with little or no positive impact on this key riverside, city centre site.
- If the pub was included with the application, a higher quality development with excellent public open spaces could have been provided rather than the current proposal, as the south of the pub intrudes into the proposed public plaza, rendering the proposed concourse unattractive and limited in use. It is unclear how the development can proceed without the inclusion of Kennedy's pub as an integral component of the redevelopment. It would appear that the two add on flanking components are an afterthought and proposed to try and address the requirements of the LAP, which sought that Kennedy's public house be integrated with any new development proposals as part of an overall design response to the site. The requirements of the LAP regarding integration have not been complied with.
- There are concerns regarding the functionality of the proposed flanking structures. No toilets, disability access, fire exists, waste disposal facilities are proposed. The smoking area associated with Kennedy's pub juts into the pedestrian concourse and will have a detrimental impact on the amenity of this space, with the large boundary wall reducing pedestrian amenity through the area.
- The proximity of the proposal to the pub will be severe and detrimental in terms of overshadowing, loss of sunlight and daylight, which in turn will impact on the buildings energy consumption. The minor setbacks proposed do not materially change the impacts on the property.

- The Sunlight & Daylight analysis confirms that the revised development will result in a considerable reduction in sunlight access to rear facing rooms. The proposed development will reduce daylight access to these rooms below the minimum recommended by the British Standard for achieving a predominantly daylight appearance (i.e. 2%)
- The applicant's claim that the impact on the residential amenity of Kennedy's pub has been fully addressed in the revised section of the EIAR is strongly refuted. The revised proposals could not address the concerns raised regarding overlooking, overshadowing and loss of daylight/sunlight given the minimal changes proposed.
- The applicants note that they have amended the form, treatments and materials of the extension to the pub. The applicant does not have permission to extend the pub.
- The revised development is relying on the new '*Urban Development and Building Height Guidelines*' to justify the height of the proposal and the adverse impacts on the surrounding area. However, the guidelines do not result in any fundamental change to the height policy pertaining to the subject site, which are designated for a taller building under the LAP. There has been no fundamental re-design of the building that addresses the previous reasons for refusal.
- The proposal is contrary to the policies and objectives of the development plan as it fails to meet the criteria for taller buildings.
- Any positives of the proposed development regarding regeneration, employment, do not outweigh the detrimental visual impact of the proposed development.
- The provisions of the Guidelines with respect to the protection of historical monuments is noted. A similar tall building has been assessed on the site and determined to have a adverse impact on the historic monument. The current proposal should therefore be refused. The changes proposed are minimal and a complete redesign to provide for a building of architectural merit and excellence has not been undertaken.

- The proposal remains relatively unchanged in terms of scale, height, bulk and massing. Fig 2 & 3 demonstrate that the revised design is imperceptible. These minor changes are not sufficient to address the concerns of the Board.

3. Alstead Securities

The observation was made by Downey Planning on behalf of Alstead Securities who occupy Ashford House to the south. The grounds of objection are as follows;

- Scale, height, mass and bulk of the 22 storey building which will negatively impact on Ashford House due to inadequate separation distances. It will give rise to significant overshadowing, loss of light and overlooking and does not reflect the requirements for tall buildings set out in the LAP.
- The minimal modification proposed do not address the concerns raised in the previous refusal. The additional set backs proposed to reduce any adverse impacts are inadequate and do not materially change the impact on Ashford House.
- Ashford House is located to the south of the proposed development, separated by Poolbeg Street and the overshadowing implications are confirmed by the Daylight and Sunlight Analysis contained within Chapter 11 of the EIAR. In the previous application, the Daylight and Sunlight analysis comprised three rooms in two floors, which did not change with the current proposal. The amount of rooms assessed is inadequate to assess the impact of a structure of 22 storeys.
- The scale, height and mass of the proposed development cannot be supported. It will result in adverse impacts on the historic character and views of Dublin city and significant negative impacts on the character and setting of the Custom House, the River Liffey Conservation Area and the O'Connell Street and Environs ACA.
- A more appropriately sited and designed development could and should be achieved at this sensitive location with a reduced scale, bulk and mass. The previous grant of permission on the site for a 15 storey building is considered a more appropriate design response, which respects the surrounding built

environment while providing for the increased height sought under the development plan and the LAP.

- With regard to the height and relationship between the buildings, the set backs provided to the southern elevation are insufficient and unacceptable considering the narrow feature of Poolbeg Street and the size and siting of the proposed development.
- The applicant argues that the refusal contradicts the Council's endorsement of the policies as set out in the plan. The height endorsed in the plan is subject to high quality design with slimmer and thinner elements at the highest point of such a structure. There has been minimal reduction at the higher elements to reduce the scale, mass and bulk of the development and accordingly the development reads as one large 22 storey tower block with minor set backs and results in significant adverse impacts on the visual amenity and views of the area. This cannot be considered to be in compliance with the vision of the development plan or the LAP.
- Concurs with the planning authority's decision regarding the provisions of Objective SC17 and the negative impacts on the skyline of the inner city resulting from the proposed development.
- While the George's Quay LAP supports the addition of a tall building at the Tara Street location, the design of the structure and its proposed height do not enhance the character of the area and appears out of context. The general composition of the scheme does not relate to the character of the area and its dominance over the River Liffey skyline would set out an unwanted precedent in terms of architectural design and approaches to a landmark building location.
- The George's Quay LAP comprises a design framework which sets out a stepped height approach to both Tara Street and Poolbeg Street with 8 storeys rising in height to 14 storeys and then to 22 storeys. This approach provides for a gradual increase in height. The proposal does not comply with this design framework and is therefore contrary to the provisions of the LAP.
- There is insufficient information for a proper assessment of the visual impact of the development on Tara Street and Poolbeg Street. The materiality differs

from other developments and the standardised design does not offer any new scheme or innovative approach to the preservation of the area. While it is recognised that the role of a landmark building is to be visible, meaningful and with a high standard of design, the proposed development will be visually intrusive.

- The public realm amenity has no relation to the history and significance of the site and does not therefore contribute in a positive manner to the development and preservation of the George's Quay area. The design of the public concourse and ground floor level do not offer adequate links to Poolbeg Street and an alternative design which enhances connectivity to Tara Street station would be preferable. The proposal does not offer the possibility of diverse ground floor uses or an active street frontage to Poolbeg Street in accordance with the public realm policies of the LAP.
- Concurs with the views expressed by DCC with regard to the vehicular access onto Poolbeg Street and the potential for queuing causing congestion and impacts on the wider road network. There are also concerns for pedestrian safety along the street including those accessing Ashford House.
- The concerns raised regarding the proposed loading bay in close proximity to the junction with Luke Street and the impact on buses accessing the bus cages immediately to the west of the proposed bay has not been addressed.
- The increase in width to the footpath and pedestrian area at ground floor level on the southern building line to Poolbeg Street is not sufficient to accommodate a proper separation distance between the proposal and the built environment, or the expected influx of pedestrian activity by further growth of the area and its environs. The minor increase contravenes the LAP with regard to the minimum width provision for Poolbeg Street (3m), for an improved public realm and enhanced pedestrian circulation at Tara Street station. There is a pinch point of a 1.9m footpath at the south eastern corner fronting Poolbeg Street, which would be unacceptable considering the proposed location of the future MetroLink station and the expected influx of pedestrian activity.

- It is considered that the proposed development would set an undesirable precedent. It is considered that the proposed development materially contravenes the Georges Quay LAP, given its scale, height and bulk and that the proposed development would seriously detract from the setting and character of the surrounding area.

6.1.5. First Party Response to Third Party Appeal

Response to Appeal by An Taisce

National Children's Hospital

- There are no grounds to include the reason for refusal as stated by An Taisce.
- The original site of the National Children's Hospital which was refused permission was located in Georgian Dublin and would have been visible for a considerable length of O'Connell Street. The proposed building is located outside the Georgian core and will only be visible from that part of the O'Connell Street ACA that meets the River Liffey and far enough away not to be dominant over the ACA. This has been tested in a series of verified views assessed in the 2018 EIAR Volume II.
- The proposed design has been carefully assessed in terms of the impact on the appearance and visual amenity of the city skyline and it is concluded that the proposed development will not create a negative impact but would be a positive modern addition to the cityscape. The proposed development is relatively modest in scale and height compared to buildings being constructed in other European cities.

Liberty Hall

- A detailed assessment of the scale, height and visual impact of the proposed development was carried out. The impact assessment concludes that the proposal will not be overly dominant in the context of the setting and significance of the ACA's
- The LAP specifically identifies the site for the provision of a landmark building of 22 storeys. The Liberty Hall site did not include such an objective. The specific objectives indicate the appropriateness of the proposed building height on the subject site. The proposed development at Tara Street has

significantly different characteristic than the Liberty Hall site. It is a major strategic transportation hub worthy of a special status such as a 22 storey landmark building as stated in the LAP.

- The site is also located at a turning point in the River Liffey which lends itself to a landmark building identifying the subtle change in the direction of the river and the transition to the Liffey Quays into the Docklands area.
- The impact on key views along the Liffey Quays has been assessed and it is considered that the impact will be positive (Fig 2 & 3). The development sits comfortably in the context of the Liffey Quays and does not adversely impact on the riverscape. There is already a set scale of development in the Docklands area, penetrated by a number of higher buildings both existing and under construction. The proposed development adds variety and interest to this waterfront location.
- The new Guidelines specifically refer to waterways as enabling additional height to be favourably considered in terms of setting a sense of scale and enclosure.
- The relevant criteria of the Guidelines were assessed in detail in both the application and appeal and it has been demonstrated that the proposed development complies with the relevant criteria for greater building heights. The proposed development satisfies the national planning policy objectives and should therefore be granted planning permission.
- It is concluded that the Third Party's request to the inclusion of additional reasons for refusal to the City Council's decision should be disregarded and that the proposal should be assessed in accordance with National Policy Objectives, the George's Quay LAP and the Dublin City Development Plan.

6.1.6. **Third Party Responses to First Party Appeal**

An Taisce Response

- There are several attempts made to justify the height and bulk of the proposed development and many of the statements made are inaccurate. References are made to the development plan and the LAP in order to support the proposed development. The decision of Dublin City Council to

refuse permission is neither directly contradictory nor fundamentally inconsistent with the provisions of the development plan or the LAP. It is entirely consistent with both documents. Whilst a building of up to 22 storeys may be considered on the subject site, both the development plan and the LAP identify constraints that must be taken into consideration in assessing any proposal for a high building in this location.

- Section 16.7.2 of the development plan identifies George's Quay as an area suitable for buildings of 50m+ subject to certain criteria (effect on historic environment, protection of important views, architectural excellence of a building). It is clear that the proposed development does not have due regard to the need to protect important views, landmarks, prospects and vistas, and its effect on the historic environment would be substantial. The requirement that the building be slender having a ratio of 3:1 has not been complied with.
- The City Architect's report is worth noting with regard to the negative effect of the development on city views and landmarks. It is also critical of the visual assessment as it relates to the effect of the proposed development on the historically important areas of the city. An Taisce fully concurs with the views expressed.
- Referring to the slenderness ratio, the applicant states that the '*outside dimensions from ground to top to the east and west elevations are a ratio of 2.64.1*' and that '*taken as a whole, the building satisfies the spirit of the slenderness ratio requirement*'. An Taisce fundamentally disagrees. The slenderness design standard has not been complied with. The bulk, scale and mass of what has been proposed appears to be the antithesis of the type of structure outlined in the LAP.
- The protection of important historic areas of the city from possible negative visual impact resulting from development of the subject site is a key policy of the LAP (Policy 10 of Urban Form and Public Realm). The City Architect makes it clear that this policy has been contravened in the proposed development. Section 1.3 of the LAP requires that any high building on Tara Street station should not intrude on the Main Square in Trinity College.

Images submitted with the application leave no doubt that this provision has not been complied with.

- An Taisce strongly disagreed with the contention made in the Richard Coleman City Designer Report that virtually all the policies and requirements of the development plan and the LAP are complied with. The development plan in the assessment criteria for high buildings requires that a slenderness ratio of 3:1 or more should be aimed for. The failure to achieve the desired slenderness ratio is not acceptable on this sensitive site and results in a building which presents as a huge mass on the skyline, which could in no way be described as slender.
- It is concluded in the Richard Coleman City Designer Report that *'the prominence of the proposed landmark development creates no great negative effects to the significance or setting of conservation area and architectural conservation areas. The effect on their setting would not diminish their significance; the proposal being either only marginally visible from them or forming part of their wider setting without being dominant in it'*. It is also stated *'No adverse effects are likely to arise from its relation with the surrounding context'*. These views are not shared by the City Architect or the Irish Georgian Society.
- Despite appellant's statements to the contrary, issues regarding the excessive scale and bulk of the building have not been properly addressed. The bulk, scale and mass of the building disregard the standards set out in the development plan. The appropriate plot ratio for this site as defined in the development plan is 2.5-3.0. The plot ratio for the proposed development is 9.44:1. The provisions of the development plan and the LAP for a high building does not imply that the plot ratio standard should be breached (Section 5.3)
- There is no precedent in this country for a development of the scale proposed. To An Taisce's knowledge the most intense development proposed heretofore was the first application for the Jury's/Berkeley Court site in Ballsbridge, which had a plot ratio of 5.9:1. It was refused permission on the grounds that it would constitute gross overdevelopment and over intensification of the use of

the site. A subsequent application was granted permission which almost halved the quantum of development. The development at Sir John Rogerson's Quay which accommodates a 66m high 19 storey tower has a stated plot ratio of 3.1:1. The part 8 storey/part 17 storey building known as the Exo Building at Point Village is 77m high and has a plot ratio of 1.72:1. The North Lotts Grand Canal Dock Planning Scheme 2014 allows for a free standing landmark building up to 22 storeys on the site.

- Contrary to the claims made in the appeal, the proposed development very clearly breaches the policies and provisions of the development plan and the LAP. It is submitted that the proposal, due to its scale, massing and height, is a stark example of gross overdevelopment and over intensification of the use of the site. It would be highly obtrusive and have a seriously damaging visual impact on a wide area of the historic city.

A submission (by V O' Shea) to the oral hearing held in respect to Liberty Hall development (PL29N. 240350) on the visual impact of the development is attached to the appeal.

Kennedy Tavern response submitted by Downey Planning

- Whilst the First Party states that the proposed development has been significantly revised to address the previous reason for refusal, the proposal remains largely unchanged and the reason for refusal equally applies (Fig 1).
- A significant proportion of the reduced floor area is due to the omission of the third basement level. Other than this there is no significant change to the scale, height, bulk, mass and visual impact of the proposed development (Fig 2-4).
- The design of the development will represent a 'generic' design approach that does not conform to the high design standards that is required for buildings of significant height located with the LAP and development area (Fig 5).
- The new height guidelines do not result in any fundamental change to the height policy pertaining to the subject lands as the lands have always being designated for a taller building under the LAP. The Guidelines state that development plans must include appropriate assessment criteria that will

enable proper consideration of development proposals for increased building height linked to the achievement of a greater density of development. Dublin City Development Plan has specific assessment criteria for taller buildings which the proposed 22 storey development fails to meet and is therefore contrary to the policies and objectives of the Plan and National Guidelines.

- The Urban Development and Height Guidelines confirm that historic environments can be sensitive to large scale and tall buildings. The proposal has been assessed as adversely impacting on the historic environment of the city. The current proposal should also be refused on that basis.
- Whilst it is acknowledged that height is permitted within the Tara Street Urban Block, it is noted that the proposed development will have a significant impact on some key views and prospects in the city. When viewed from an east-west perspective along the Liffey, the proposed form is wide and sits very heavily on the skyline due to massing. This solid mass does not respond well to its surrounding context and does not create an elegant form worthy of landmark status. The proposals conflicts therefore with Policy SC7 and SC17 of the plan.
- There is potential for a more appropriate, sustainable and high-quality development to be achieved if Kennedy's pub formed part of the development. It is requested that if permission is granted that a condition be attached requiring the applicant to engage with observers with regard to the monitoring of the development's impact on the property and that a programme for monitoring vibrations and mitigation measures be agreed and submitted for approval to Dublin City Council.
- In conclusion, it is noted that the observer objects strongly to the proposal given its intrusive nature and potential for significant adverse impacts on the amenities of the public house. A more integrated approach to the development of the site would be preferable.

6.1.7. Further Responses

An Taisce disagrees with the First Party contention that the development is 'plan led'. The decision to refuse permission is entirely consistent with the development plan, the LAP and the Urban Development and Building Height Guidelines. Whilst

the applicant repeatedly quotes from these documents purporting to justify the development, the caveats outlined in all three documents clearly militate against a development of such bulk, scale and mass at this location. All three documents seek to ensure the protection of key views and the historic environment in architecturally sensitive locations, by ensuring that all taller buildings integrate into or enhance the character of the area and protect key views.

Great reliance is placed on the Townscape, Landscape, Heritage and Visual Impact Assessment (TLHVIA) prepared by Richard Coleman City Designer. An Taisce's observation made reference to failings found in a similar report by the same author in support of the Liberty Hall proposal. The City Architect raised issues regarding the accuracy of the report. The informed objective assessment of the City Architect must take precedence over a subjective report which finds that the proposed development '*would not impact adversely on the local or wider environment*'.

There is a failure to fully appreciate the extreme sensitivity of the setting of the proposed development in the context of the historic city, or, of what comprises the Georgian core. It cannot be argued that the site is anywhere other than in the Georgian core of Dublin. The site also lies opposite the Custom House, one of the city's most identifiable Georgian buildings.

To compare the setting of the financial district of the City of London, where there is a concentration of very high buildings, with the historic core of Dublin, a city of Georgian scale, illustrates the complete absence of any awareness of the imperative to ensure that the proposed development responds appropriately to its context.

Downey Planning responding on behalf of **Alstead Securities** supports An Taisce's objection to the proposal. Whilst it is stated that substantial changes have been incorporated into the proposal, the fundamental issues have not been addressed. The Board's previous reason for refusal remains valid. The scale, height and bulk of the scheme cannot be supported and would if permitted impact on the historic character and views of Dublin city.

The applicant's suggestion that the proposal satisfies national policy is refuted. The new height guidelines have not introduced any new policies regarding building height for the subject lands, which are designated for taller buildings under the LAP.

The applicant notes that the proposed application site has taken into account the adjoining site for a proposed MetroLink Station. The proposal is for a commercial development with no residential uses proposed as part of the scheme, which given the location of the lands potentially adjoining a major transport corridor, should be a material consideration, noting that the lands would be ideally suited for a mix of commercial and residential uses in accordance with sustainable transport objectives and national policy for mixed use schemes.

It is proposed to service the development from Poolbeg Street and Dublin City Council have raised concerns in this regard, noting its proximity with Luke Street and the impact on buses accessing the bus cages immediately to the west of the proposed bay and resulting in a hazardous environment for both pedestrians and workers in the surrounding area. This was raised as a serious issue at the oral hearing and has not been addressed. The footpath along Poolbeg Street is 1.9m wide only at its pinch point and is contrary to the requirement for a 3m wide path with active uses onto Poolbeg Street.

Whilst each proposal is considered on its individual merits, there are precedent cases whereby permission has been refused due to adverse impacts in the city skyline and historic city core. The design of the scheme is relatively unchanged from the previous proposal and the modified form, however subtle, will not overcome the previous reasons for refusal on the subject site.

The medium and long term view of the proposed building indicate very little change from the scale, bulk and massing of the previous building. The photomontages clearly show the tower having a significantly detrimental impact due to its scale, and bulk on the setting and character of the Custom House and adjacent conservation areas.

The response by Downey Planning on behalf of **Kennedy Taverns Ltd and Mr Ciaran Kennedy** repeats some of the issues raised in the initial observation and the response on behalf of Alstead Securities Ltd and are not repeated here. Additional points raised are as follows.

The applicant states that the proposed development is located at a turning point in the River Liffey which lends itself to a tall building and has been identified in the Georges Quay LAP as capable of delivering a taller building. It is also stated that

Liberty Hall is not subject to an LAP or policy for a taller building. However, it is not the height of the building, but the scale mass and bulk which is contrary to both the development plan and the LAP, with the LAP including sketch proposals for a fin at the highest point thereby reducing the scale, mass and bulk of the development on the skyline. The proposed development appears as one large block on the skyline contrary to the policies and objectives which seek to protect the city skyline from inappropriate development.

The applicants note that the Urban Development and Height Guidelines set out criteria relevant to the proposed development and lists out how the proposed development complies with same including proximity to public transport, increased building height to enhance the character of the public realm, contribution to place making etc. With regard to public realm the rear projecting element of Kennedy's, which is a later addition and is not protected, pierces the concourse for the proposed development such that a high quality concourse cannot be provided and will dominate and depreciate the appearance of such a high quality environment. The rear garden and high walls will jut out into the space.

The proposed extension to Kennedy's pub appears as an afterthought, with only ground floor use proposed with no servicing area, toilets, bins etc provided for the café/retail units. The proposal provides for an inefficient use of town centre lands where it has been policy to ensure upper levels are utilised within city centres.

With regard to the Daylight and Sunlight report, it indicates irreversible impacts on Kennedys public house and will also overshadow the Custom House, impacting materially on this historic building.

7.0 Assessment

7.1. Introduction

- 7.1.1. I have examined the file and the planning history, considered national and local policy and guidance and I have inspected the site. I have assessed the proposed development including the various submissions from the applicant, the planning authority, prescribed bodies and the observers. I consider that the key issues that arise for consideration by the Board in this case relate to the following:

- Principle of the development.
- Design, scale and mass of the development.
- Visual impact.
- Impact on Protected Structure.
- Roads & Traffic.
- Other matters
- Environmental Impact Assessment
- Appropriate Assessment.

7.2. Principle of the development

- 7.2.1. The proposed development accords with national policy/guidance, which seeks to secure compact growth in urban areas and deliver higher densities in suitable locations. The proposal will deliver a high density development in a strategic location close to major transport infrastructure enabling the city ‘to accommodate a greater proportion of its growth within its metropolitan boundaries through regeneration and redevelopment projects’ (National Strategic Outcome 1) and ‘encourage more people and generated more jobs and activity within the city’ (National Policy Objective 11). In delivering a building of significant height, it acknowledges the role that height has to play in the delivery of more compact growth consistent with the recently published ‘Urban Development and Building Height-Guidelines for Planning Authorities’.
- 7.2.2. The proposal will facilitate the redevelopment of this underused brownfield site, with a dynamic mix of uses which will help to consolidate and facilitate the development of the central area in line with the core strategy of the development plan. It is also consistent with the Z5 zoning objective, which facilitates mixed use development (including office, hotel, and restaurant uses).
- 7.2.3. Whilst the development plan acknowledges that Dublin is fundamentally a low rise city and considers that it should remain predominantly so, the merit of taller buildings in a limited number of locations at a scale appropriate to the city is recognised. George’s Quay is specifically identified as an area suitable for a taller building (50m

+) The site is also identified as being suitable for high density development as a location suitable for a high building in the George's Quay LAP.

- 7.2.4. The proposal accords with the provisions and objectives of the LAP for this site. It would deliver a landmark building of 22 storeys (88m) provided for in the plan in a position identifying a key public transport node. It would act as a visual counterpoint to Liberty Hall and would serve as a twin landmark or 'gateway' with Liberty Hall, marking the transition between the traditional city core and the docklands. It would act as a termination of long views on a pivotal turning point on the River Liffey and provide a more generous public realm to passenger concourse to accommodate increased passenger numbers.
- 7.2.5. Whilst I accept that the proposed development is acceptable in principle in this location, this is a significant and sensitive place in the city. The site lies in a prominent position where the river widens and changes course and forms a place of transition from the small scale traditional urban river quality in the west to the broader harbour character of the river in the east. It is also the place where the Custom House stands (Protected Structure), which is regarded as one of the most significant Georgian buildings in the city.
- 7.2.6. Whilst the need to secure more compact growth in urban areas is articulated at both national and local policy level and increased building height is identified as a measure to achieve this, it is also acknowledged that there are constraints that need to be taken into consideration in assessing any proposal for a high building, including the protection of key views and the historical environment in architecturally sensitive locations. It is recognised in the development plan (Policy SC17) that new proposals must be sensitive to the historic city centre, the river Liffey and quays, Trinity College, the cathedrals, Dublin Castle and the historic squares and canals. This is repeated under Policy 10 Urban Form and Public Realm of the George's Quay LAP, which seeks to ensure that all new buildings respect the historic precincts of Trinity College, the Custom House and the Liffey Quays and the vistas of Georgian Dublin and have no negative local or city wide visual impacts. These matters are considered in more detail below.

7.3. Design, height, scale and mass of the building

7.3.1. Modifications have been incorporated into the design of the proposed building in order to address the Board's previous reason for refusal. According to the applicant the design changes reduce the perceived bulk, scale and mass of the building to create a building of elegance with an appropriate slenderness ratio, which will reduce the visual impact of the proposal from key vantage points in the city. This position is not accepted by Dublin City Council, An Taisce, the Irish Georgian Society or the observers to the appeal.

7.3.2. The architectural rationale for the proposed development is described as follows in the planning application documents.

'The design strategy is to create an architectural language whereby both elements of the building, whilst separately addressing local and city scale contexts, act harmoniously to bring a unified compositional design response to the Tara Street site. The massing of the taller element is broken down into two equal interconnected volumes which together form the volume of the tower. The plan form of the tower element is sculpted by overlaying the 2 equal rectangular volumes and introducing an offset by sliding one volume transversely over the other, creating a singular symmetrical element. This achieves slenderness in the higher element and reduces its visual impact when viewed from key vantage points in the city'.

7.3.3. Essentially the scheme includes a 5 no. storey podium level above which there is a tower of 17 no. storeys. The height of the structure remains similar to that previously proposed at 22 no. storeys (88m). The elevational treatment to both the podium and tower is similar with projecting metal fins of varying depths on alternative facades.

7.3.4. The modifications include a set back at the south western corner of the building from Level 05-20 (Dwg No's 1006 P1 and 1018 P1), the provision of a roof terrace on the southern elevation at level 18, reducing the massing of the overhead structure for the remaining three floors (Dwg No 1018 P1), a further set back in the south-eastern corner at Level 18 reducing the massing of overhead structure of the remaining three floors (Dwg No 1018- P1) and the set back at Level 21 to provide a terrace along the western elevation to the roof top restaurant (Dwg No 1021 P1).

7.3.5. I accept that the alterations proposed through the incorporation of set backs in the southern and western elevations of the tower together with the updated façade

design incorporating greater variation in depth and spacing of projecting louvre fins, will help to reduce the overall massing and increase the slenderness ratio of the tower from that originally proposed. However, I draw the attention of the Board to the City Architect's interpretation of the potential impact of the revised proposal, which I consider to be entirely reasonable;

'It is considered that these revised variations in fin depth and spacing and the proposed set back distance outlined above will remain difficult to interpret from either near or distant views of the tower. It is considered that in the dominant view from the West (City) and East (Bay) the tower will be interpreted in its full width with a slenderness ratio of 2,6:1 compared with the slenderness ratio of 3:1 set out in the assessment criteria for higher buildings'.

- 7.3.6. The City Architect's assessment is not shared by a number of architects whose comments support the appeal documentation. Mr Des Mc Mahon for instance considers *'that the architectural detailing, proportions revised massing and use of materials together emphasises slenderness and elegance'*, and the building *'is an excellent example of architectural elegance and urban design in a pivotal location'*.
- 7.3.7. Mr Paul Finch (Architectural Review) notes that *'having incorporated the principle of a 22 storey tower into its LAP, the city council must have been aware that such a building would be visible from many places'* and that *'the design will create an instant landmark and a precedent design for mixed use development and public realm improvement in a distinctive European city.'*
- 7.3.8. MOLA Architecture considers that *'with respect to the urban design role of the subject proposal, its landmark function is elegantly demonstrated'* and *'the modifications proposed demonstrably enhance its architectural expression'*.
- 7.3.9. I accept that the height of the proposed building extending to 22 storeys (88m) is not inconsistent with the provisions of the Dublin City Council for this site as identified in the LAP. While I accept that the modifications do provide additional articulation to the building, providing a more refined silhouette and an improvement to the overall mass of the building, the following section of the report examines the visual impact of the proposal from various viewpoints in and around the city centre and whether the modifications are adequate to address the Board's previous reason for refusal.

7.4. Visual Impact

- 7.4.1. The visual impact assessment of the proposed development is contained in the Townscape, Landscape, Heritage and Visual Impact Assessment (TLHVIA Report - Volume 2 of the EIAR). It provides an assessment of the impact of the proposed development on townscape and landscape receptors (Chapter 8), built heritage (Chapter 9) and the visual effect from various viewpoints (Chapter 10). A total of 50 viewpoints were chosen, in consultation with Dublin City Council (Fig 10.1). Each view is depicted as it currently exists, with the development in place and a cumulative view (where one exists) showing the proposed view in conjunction with other permitted schemes.
- 7.4.2. Views of the site are assessed from a wide range of locations around the city centre including the following;
- River Liffey to the east and west of the site,
 - Custom House and within the Trinity College campus, College Green and Christchurch,
 - major streets including Grafton Street, Dawson Street, Kildare Street and Harcourt Street to the south, and North Great Georges Street, Grandby Row, Henrietta Street, Fredrick Street and O'Connell Street to the north,
 - along streets in close proximity to the site including Poolbeg Street, Tara Street and Eden Quay,
 - open spaces including St Stephen's Green, Merrion Square, Mountjoy Square and the Phoenix Park.
- 7.4.3. The conclusion reached in the assessment is that the proposed development will have a major and beneficial effect on five views;
- Rosie Hackett Bridge (View No 5 & 6),
 - Amiens Street South (View No 11)
 - Poolbeg Street West (View No 46S)
 - Junction of Georges Quay and Butt Bridge (View No 47S). and
 - Tara Street South (View No 48S).

- 7.4.4. It was further concluded that the proposed development would have moderate and beneficial effects on 23 no. views, minor and beneficial or neutral effects on 15 no. views and no change on 13 no. views. A number of kinetic views taken from Dame Street/College Green, Grafton Street, Dawson Street and Gardiner Street are presented in Chapter 11 of the report. The conclusion reached in the assessment is that the overall effect in all situations is beneficial/neutral and this arises from the elegant and refined design of the building, the regeneration of the site with a landmark building and enhanced public realm.
- 7.4.5. I have reviewed each of the viewpoints presented in the EIAR and my comments are as follows;
- 7.4.6. *River Liffey -Views from the west-* From the River Liffey to the west (O'Donovan Rossa Bridge) the full width of the building will be visible within the existing cluster of buildings formed by O'Connell Bridge House and the Ulster Bank centre. The building would extend significantly above the roofs of these buildings and the level of visibility and magnitude of impact would increase closer to the site. At View 4, for example, on Eden Quay/O'Connell Street Lower at least 13 storeys would be visible above the established roof profile, extending to 15 storeys on Rosie Hackett Bridge (View 5). From here the full width of the building would remain visible and with the Ulster Bank offices concealed to its rear, the dominance of the building increases, making it highly visible in the skyline. I would also draw the attention of the Board to View 6 (Eden Quay/junction with Beresford Place) where the full impact of the building, its podium level and tower at close range can be considered.
- 7.4.7. Having regard to the height, scale and mass of the building in these views, I find it difficult to reconcile the conclusion reached by the applicant that the overall impact would be moderate/major and beneficial. I consider the City Architect's assessment to be more accurate i.e. major and adverse.
- 7.4.8. *River Liffey -Views from the east.* The River Liffey widens to the east of the site and is the dominant element in these views. While the building will project significantly above the surrounding buildings, I accept that the reduced sense of enclosure negates the effect to a degree (View 7). However, closer to the site, the building resumes its dominance.

Views in both directions along the River Liffey are identified for protection in the development plan in Fig 4 Key Views and Prospects (Indicative). The river forms part of the River Liffey Conservation Area, designated in recognition of its special interest, architectural character and important contribution to the heritage of the city. Notwithstanding the arguments put forward by the applicant that the site is at a point of change in character where the direction of the river changes and the forms an area of transition from the ancient quays to the modern docklands, the building occupies a similar footprint to that previously proposed, and I do not consider that the modifications proposed as part of the scheme are sufficient to address the Board's previous reason for refusal.

- 7.4.9. *Custom House* -The impact of the development on the Custom House is assessed in terms of outlook from the building (View 10) and from locations to the north where it will be visible above the roof (Views 11,12,13 and 14). From the south façade of the Custom House the new structure will be viewed as an additional element in the urban landscape on the opposite side of the river. While it will result in a high degree of change in this view, the greatest impacts will be from views towards the building from the north, particularly Amiens Street, Beresford Place and Gardiner Street Lower. From here the new building will be highly visible as it projects significantly above the roof of the Custom House (View 11, 13 & 14) and reduces the dominance of the dome (View 12), which will significantly impact on its character and setting.
- 7.4.10. The Custom House is described by the Irish Georgian Society as an '*architectural masterpiece*'. The City Architect notes that it is '*often considered architecturally the most important building in Dublin*'. This is reflected in the National Inventory of Architectural Heritage where it is recognised as being of international interest, described as '*one of Ireland's most accomplished Neo-Classical buildings*'. The building is a Protected Structure.
- 7.4.11. The Board's previous reason for refusal concluded that the proposed development would seriously impact on the character and setting of the Custom House. I do not consider that the modifications to the proposed scheme are adequate to address these concerns.
- 7.4.12. *Trinity College Campus* – The campus includes an assemblage of buildings arranged around quadrangles, many of which are protected structures. The campus

lies within a Conservation Area. The impact of the development is assessed from a number of locations within the campus (Views 15-22) and in views towards the campus from Kildare Street (View 30). Whilst the applicant seeks to downplay the magnitude of change in these views, the new building will be visible in gaps between, and above the rooflines of some of the protected structures that form a cluster to the west side of the campus.

7.4.13. I consider that the impact of the development on Trinity College will be significant terms of its prominence in certain views from the campus which will impact on the character and setting of its protected structures. I would note the following from the City Architects report;

‘The massing and design quality of the proposed building results in an unacceptably negative impact on the skyline of the most intact historic spaces in Dublin. This comprises the tranquil, historically significant collegiate environment that is “owing to the inward nature of its buildings” by having an unwelcome external voyeur impacting on the sense of place.

I accept that the evolution of the university has resulted in the development of more modern buildings alongside protected structures within the campus setting. Notwithstanding the modifications proposed as part of the current scheme, I do not consider that the concerns raised by the Board regarding significant and detrimental impacts on the views from the Trinity College Campus have been resolved in the current proposal.

7.4.14. *College Green* – College Green is significant both architecturally and historically containing the former Houses of Parliament (now Bank of Ireland) and Trinity College, both protected structures. Views 24 and 25 assess the impact of the view as it opens out into College Street. At least 10 no. floors of the new building will be visible in the gap between the two protected structures, which will negatively impact on the streetscape. The Board concluded that the previous proposal would have a significant and detrimental impact on the views from College Green and the alterations to the design are not, in my opinion, sufficient to address this concern.

7.4.15. *North Dublin Georgian Quarters* - Neither the Irish Georgian Society nor Dublin City Council accept the applicant’s conclusions that the impact of the development on views from various Georgian streets and squares to the north would be

minor/moderate and beneficial. The Irish Georgian Society note the intrusiveness in the view from Frederick Street towards Parnell Square (View 38) and its prominence in the views from Grandby Row (View 40). Dublin City Council draw attention to Views 34 (Five Lamps), View 38 (Frederick Street North), View 39 (Parnell Street East), View 40 (Grandy Row) and View 41 (Henrietta Street) concluding that the massing and design quality of the proposed development results in an unacceptably negative impact on the skyline.

- 7.4.16. I consider that irrespective of the refinements to the design, the impacts on these streets remains similar to the previous proposal and are not sufficient to warrant a reversal of the Board's previous decision. I accept that the proposed development would be visually intrusive and negatively impact on views from these streets.
- 7.4.17. I accept that there are many areas within the city where the proposed development will not be visible. This includes the main shopping streets of Grafton Street, Henry Street, Dawson Street and the upper sections of O'Connell Street and significant public open spaces including St. Stephen's Green, Merrion Square and Mountjoy Square. However, the development will have greatest impact on the most sensitive buildings and streetscapes within the historic city core including the Custom House, Trinity College, College Green, Georgian streets and on important views and vistas within the city, which are earmarked for protection in the development plan.
- 7.4.18. The Board in its previous reason for refusal concluded that the proposed development due to its scale and bulk would have a negative impact on the setting, context and character of the historic city core and on key important views. Whilst it is applicant's contention that significant design changes have been incorporated into the proposal to address this, I am not persuaded that this is the case. The Board will note that this position is also not accepted by Dublin City Council, An Taisce, the Irish Georgian Society and the observers to the appeal.
- 7.4.19. While I accept that the set backs in the upper level elevations, the more transparent restaurant level and the use of vertical fins of varying width would reduce to a degree the mass and bulk of the building, I do not consider that it addresses the substantive reason for refusal. I consider that the proposal will continue to result in significant negative impacts on buildings and views within the historic core of the city.

7.5. Impact on Protected Structure

- 7.5.1. Kennedy's public house is listed in the record of Protected Structures (No 3175). The building, which is thought to have been constructed between 1882-1889 is a three bay, four-storey over basement structure fronting onto George's Quay. A more recent extension has been constructed to the rear. According to the Conservation Report included in Volume 2 of the EIAR (Appendix 111) the basement is used for storage purposes, the ground floor is used as public house with a restaurant and kitchen on the first floor. The two upper floors are stated to be in residential use. The Conservation Report provides an architectural description of the exterior and interior of the buildings noting the alterations that have taken place and the features of interest that have been retained. The overall conclusion is that although altered internally and externally, the building retains a lot of its 19th century character.
- 7.5.2. Concerns have been raised regarding the negative impact of the proposal on the character and setting of the protected structure and the potential for impacts on its structural integrity arising from the significant excavation and ground works that will be required in close proximity.
- 7.5.3. The protected structure does not form part of the application site and no alterations are proposed to the building itself as part of the proposed scheme. It is intended to provide two flanking structures of triple height on either side of the building which will accommodate café/retail/restaurant use at ground floor level. The structures would be recessed behind the front building line allowing the building to retain, to a degree, its character and dominance at street level. Similar flanking interventions were proposed as part of the original scheme.
- 7.5.4. The protected structure currently stands as an isolated structure on a site. The building with its historic fine grain and understated proportions is part of the vernacular tradition of the city and formed part of an original terrace of narrow plots. Under the provisions of the development plan *'new development should relate to and compliment the special character of the protected structure in terms of design, form, scale, height, proportions and materials'*. Under the provisions of the LAP *'new development should respect and reflect the traditional narrow plots and frontage widths where they exist, and where feasible, to maintain the fine grained character of such areas'*. The preferred solution would therefore be to reinstate the mass and

scale of the original terrace. This would ensure that the character and setting of the protected structure as its addresses this important location on George's Quay is respected and protected.

- 7.5.5. I accept that the development of the site presents significant challenges due to its confined and restricted nature and issues regarding properties in separate ownership. I also accept that a balance needs to be achieved between maximising the development potential of this strategically important city centre location, while at the same ensuring that the character and setting of the protected structure is not compromised. Whilst the former objective has been successfully achieved, I am not persuaded that the current proposal is the optimal design solution in terms of improving the overall context of the protected structure.
- 7.5.6. The Board will note that the City Architect considered that the flanking 'extensions' were acceptable in their massing as they are subservient in scale to the pub, but concluded that the preferred proposal would be *'the reinstatement of the massing of the historic terrace using contemporary design, reintroducing a coherent context to Kennedy's pub'*. I would also note that it is a key objective of the LAP that Kennedy's pub be integrated into the design proposal for the site, which I do not consider has not been delivered in either the previous or current proposal on this site. I would also note that while similar issues were raised in the previous appeal, the impact on the Protected Structure was not raised in the Board's reason for refusal.
- 7.5.7. While concerns have been raised regarding the potential for impacts on the structural stability of Kennedy's public house, arising from deep foundations and the level of construction necessary on the site, the applicant has a duty of care to protect adjoining property and exercise due diligence to ensure that damage does not occur. I would note that this type of infill development is common in city centre locations and there are standard methodologies to protect adjacent property.
- 7.5.8. There is the potential for vibration impacts arising from piling, demolition and ground breaking activities. I note from the EIAR that the vibration levels that will occur will be within recommended thresholds and are, therefore, not expected to result in any cosmetic/structural damage to any building in the vicinity, including the protected structure. This would be in accordance with industry best practice.

7.6. Roads & Traffic

- 7.6.1. A number of issues were raised in the submissions regarding the potential adverse impact of the proposed development on roads and traffic. These pick up on the concerns raised by Dublin City Council (Transportation and Planning Division Report) relating to carparking, access and servicing arrangements on Poolbeg Street and the potential for impacts on pedestrian movement from the provision of cycle parking stands on Tara Street. A Transportation Report and Mobility Management Plan Framework was submitted by CS Consulting in support of the application, who also prepared the rebuttal to the grounds of appeal (Appendix 4).
- 7.6.2. Car parking space for 16 no. cars will be provided on the site. The spaces will be assigned as follows, 11 no. to office use, 4 no. to the hotel element and 1 no. space for service maintenance vehicle. It is predicted that the total volume of traffic that will be generated by the development will be 44 vehicles over the course of a typical weekday (arrivals and departures combined). This will result in 22 vehicles joining traffic on Tara Street (departures only as Poolbeg Street is one way westbound) per day. Having regard to the Annual Average Weekday Traffic on Tara Street, the daily traffic from the proposed development would be equivalent to 0.12% of the total existing traffic at the Tara Street/Poolbeg Street junction. Junction analysis indicates that the junction operates within capacity at present in the AM and PM peak hours and will continue to operate within capacity for both 2020 and 2030 with the development in place. The proposal will not result in any significant impacts on traffic flows in the area or on the capacity of the Tara Street/Poolbeg Street junction.
- 7.6.3. Issues have been raised by Dublin City Council regarding access to the basement car park and the potential for queuing on the public road. Vehicles will enter the basement via a two-car lift system, controlled by a traffic light system with an off-street waiting area of c.5m for vehicles. According to the analysis of lift performance (Appendix E of CS Consulting Report), the system will be capable of accommodating the arrival and departure of all cars within a 10 minute period, avoiding queuing of arriving vehicles on Poolbeg Street. In the event of no lift space being available, the alternative measures include either waiting in the loading area (outside loading times) until space is available or circulating around the block via Poolbeg Street, Hawkins Street, Townsend Street back to Luke Street.

- 7.6.4. The number of car parking spaces proposed is well below the maximum development plan standards (52 no.). The applicant argues that a minimal amount of car parking is required for the proposed development as there are no public car parks in the vicinity and because off-street car parking has been removed in the vicinity. It is further noted that the recent permitted development of Hawkins and Apollo House includes car parking spaces at basement level for 90 no. cars.
- 7.6.5. Dublin City Council are of the opinion that carparking is not warranted, noting the strategic location of the site in terms of access and connections to public transport including Luas, DART, bus transport. Other improvements to public transport include MetroLink and improvements to bus priority measures in the vicinity which will further improve the accessibility of the site and negate the need for car parking.
- 7.6.6. While I accept that the level of carparking provision is very low, having regard to the overall Government objective to reduce dependence on private car usage and to promote more sustainable forms of transport and the strategic location of the site proximate to both the DART and proposed MetroLink rail systems and accessible bus transport, I accept that the principle of removing the provision of on-site car parking would not be unreasonable, except for maintenance vehicles and some provision for disabled drivers.
- 7.6.7. Concerns have been expressed by Dublin City Council regarding the location of the service loading bay on Poolbeg Street. The location of the loading bay is not indicated on the application drawings but is shown at a very small scale on Fig 6 of the Transportation Report. The proposal is to locate the facility on the south side of Poolbeg Street close to the junction with Luke Street. It is applicant's contention that there is ample space along the street to accommodate a service loading area which would be restricted to a max 15 min stay and will be accommodated to maintain clear unobstructed vehicular movement along Poolbeg Street. While I would accept that this side of Poolbeg Street is not heavily trafficked, a portion of the street is dedicated for buses, leaving little alternative space for loading/unloading facilities. The applicant notes that there are numerous loading bays present within a 3 minute walk of the site, in addition to one to be provided on Poolbeg Street as part of the recently permitted development of Apollo and Hawkin's House. It is applicant's contention that that the development deliveries/collections will be operated by a managed system no different to existing servicing arrangements within the city,

which ensure that existing loading bay facilities are utilised efficiently by surrounding development operators. I note that similar issues were raised by Dublin City Council in the previous application, which I do not consider have been adequately addressed in the current proposal.

- 7.6.8. With regard to the pedestrian environment, issues have been raised by both Dublin City Council and the observers regarding the impact of the provision of planters and bicycle stands on pedestrian movement on Tara Street. Whilst it is noted that the western side of Tara Street does not currently accommodate significant pedestrian volumes, it is expected that this will change with the development of a diagonal pedestrian route (as part of the development of Apollo and Hawkins House sites), coupled with improvements in pedestrian infrastructure in the vicinity.
- 7.6.9. The proposal provides for a significant widening of the footpath on both Tara Street and Poolbeg Street, more than doubling the pedestrian space available on both streets. Having regard to the overall increase in footpath width, should the proposal be otherwise acceptable, I consider that this matter could be addressed by condition, requiring that the location of bicycle stands and planters can be agreed with Dublin City Council prior to commencement of the development.

7.7. Other matters

- 7.7.1. Mr Ciaran Kennedy raised concerns regarding the potential for impacts on the residential amenity of the accommodation in Kennedy's public house arising overlooking, overshadowing and loss of sunlight/daylight. There are upper floor windows to the rear of the public house facing towards the development site. Having regard to the separation distance and the office uses proposed in the podium level, it is not considered that the level of overlooking would be significantly increased above that generated by the former office building at Tara House.
- 7.7.2. It is acknowledged in the sunlight/daylight analysis submitted as part of the application, that there would be a considerable reduction in sunlight and daylight access to the rear facing rooms of the public house arising from the proposed development. It is not possible to mitigate this impact and I accept, therefore, that the residential amenity of the property would be significantly reduced.

- 7.7.3. The Board will note that the application has taken into account the proposed MetroLink proposal, with a proposed new station located immediately to the south of the site (Section 2.4 of Architectural Design Report – MetroLink integration). I note that the application is supported by correspondence from the NTA which states that the proposal is capable of being advanced in a manner that is consistent with the current MetroLink proposals.
- 7.7.4. Should the Board conclude that permission for the development should be refused, I do not consider that it is necessary to expand on the previously cited grounds, as contended by An Taisce, having regard to the Board' s original comprehensive reason for refusal.

8.0 Environmental Impact Assessment

8.1. Statutory Provisions

- 8.1.1. This section of the report comprises an environmental impact assessment of the proposed development. Whilst the proposed development is sub-threshold, it was concluded by Dublin City Council at pre-application stage that EIA was required as the potential existed for significant effects on the environment. Under the provisions of amending Directive 2014/52/EU, an EIAR was prepared and submitted in support of the application.
- 8.1.2. In addition to a Non-Technical Summary, the EIAR contained two volumes. Volume 1 contains the Environmental Impact Assessment Report and Volume 2 contains the Townscape, Landscape, Heritage and Visual Impact Assessment.
- 8.1.3. In accordance with the requirements of Article 102 of the Planning and development Regulations, I have conducted an environmental impact assessment of the proposed development. I am satisfied that the information provided in the EIAR is sufficient to allow the Board to reach a reasoned conclusion on the significant effects of the project on the environment. I am satisfied that the information contained in the EIAR complies with the provisions of Article 3,5 and Annex (IV) of EU Directive 2014/52/EU amending Directive 2100/92EU.

8.2. Alternatives

- 8.2.1. Article 5(1)(d) of Directive 2014/52/EU requires that the EIAR includes a description of the reasonable alternatives studied by the developer which are relevant to the project and the main reason for the chosen option, including a comparison of environmental effects.
- 8.2.2. In terms of the alternatives considered, Section 2.6 of the EIAR refers to alternative locations, alternative design and alternatives processes. Alternative locations were not considered by the applicant as the proposal is for a specific project on a specific site that is designated for development under the George's Quay LAP. On this basis, I accept that examination of alternative locations is not warranted.
- 8.2.3. With regard to alternative design, the applicant notes that the objectives and criteria of the LAP limited the scope for radically different alternatives to the development proposed. Notwithstanding this, a number of design options were considered including different forms and massing compositions and alterations to address the previous reason for refusal. Having considered the various options, the conclusion reached is that the chosen design which incorporates a disaggregated tower extending to 88m and a podium level is the optimal solution for this site. The 5 storey podium level is considered to correspond well to the local streetscape context while the composition of the tower element facilitates a diverse and elegant elevational treatment.
- 8.2.4. The proposal will provide for the substantial regeneration of this brownfield site in the city centre close to public transport connections and in accordance with the general aims and objectives of the LAP. I consider that the Board has before it adequate information on the alternatives considered by the applicant and that the rationale for the chosen design has been demonstrated.

8.3. **Likely Significant Direct and Indirect Effects**

- 8.3.1. As is required under Article 3(1) of the amending Directive, the EIAR describes and assesses in an appropriate manner the direct and indirect significant effects of the project on the following prescribed environmental factors;
- (a) Population and human health,
 - (b) Biodiversity,
 - (c) Land, soil, water, air and climate,

(d) Material assets, cultural heritage and the landscape, and

(e) The interaction between the factors referred to in points (a) to (d).

8.4. Population and Human Health

- 8.4.1. Chapter 3 of the EIAR focuses on the potential likely and significant impact on Population and Human Health. The impacts are considered in respect of economic activity, social patterns, land-use and settlement patterns, employment and health & safety. The details of the existing environment indicate improvements in economic activity arising from growth in the national economy, population growth, increase in employment levels and a significant well educated work force, which enhances the attractiveness for investors to locate in the area. In terms of land use the site is a brownfield site and is designated for development. It is considered that the proposed development will meet the objectives of the LAP providing a high-quality office development, with the hotel component providing much needed tourism infrastructure for the city adjacent to a rail hub.
- 8.4.2. Whilst the construction stage will result in negative impacts on population and human health (noise, air pollution etc which are discussed in separate chapters), the impacts of the proposal are considered to be largely positive with increased economic activity both during the construction and operational stages. This will be associated with job creation and secondary and spin-off impacts on ancillary support services. Once operational, the benefits will be more long-term, with office space supporting 844-891 office workers, ground floor retail/café uses catering for local pedestrians, business and commuters. The new hotel will help to address the shortfall in hotel bedspaces in Dublin identified by Failte Ireland.
- 8.4.3. Whilst mitigation will be required to reduce impacts associated with construction with the potential to impact on population and human health, no significant negative effects are identified associated with the operational stage where mitigation would be required. A Construction Management Plan will be prepared by the contractor prior to the commencement of the development, to ensure that the amenities of local residents, businesses and the wider community are protected.
- 8.4.4. I consider that the assessment of impacts on population and human health is adequate and reasonable. Whilst there may be impacts during construction, these will be temporary and short term. The proposal will secure the redevelopment of an

underutilised brownfield and once operational will create additional employment and generate increased economic activity in the area, with positive outcomes for local business, residents and the wider community.

- 8.4.5. I have considered all of the written submissions made in relation to population and human health, in addition to those specifically identified in this section of the report. I am satisfied that they have been appropriately addressed in terms of the application and the information submitted by the applicant and that no significant adverse effect is likely to arise.

8.5. Archaeology, Architecture and Cultural Heritage

- 8.5.1. The site is located within the zone of archaeological potential for the historic centre of Dublin City (RMP DU018-020). A total of eight recorded sub-constraints are located within 200m of the proposed development area. The site is immediately south of the early 18th century quay wall of George's Quay (DU018-020458). This is the closest sub-constraint within the overall zone of potential. The next closest sub-constraint occurs c.27m to the west.
- 8.5.2. Details of the results of previous archaeological fieldwork both on site and within its vicinity are documented in the report. The monitoring of previous groundworks on the site identified post medieval features to a depth of 3.5m. A field inspection was carried out in May 2016. No previously unrecorded features of archaeological significance were identified during the field inspection.
- 8.5.3. The potential impacts on the archaeological resource arising from the proposed development would be associated with ground disturbance during construction with impacts on features or deposits of significance if excavations proceed beneath 3.5m. It is possible that much earlier prehistoric features and /or deposits may be present beneath the 18th century deposits. To mitigate potential impacts, it is proposed to carry out archaeological monitoring of all groundworks on the site, in accordance with the standard practice. There will be no impacts associated with the operational stages of the development.
- 8.5.4. Whilst it is acknowledged in the report that the site has already been subject to large scale disturbance associated with its development since the 18th century, I accept that there is potential for the construction phase to impact on sub surface

archaeology, as the lowest basement level will be up to 12m below ground level. Subject to monitoring of groundworks as proposed in accordance with standard practice, I accept the potential impacts can be mitigated. Should the Board be minded to grant permission for the development, I recommend that a standard condition be attached requiring archaeological monitoring of all groundworks.

- 8.5.5. I have considered all of the written submissions made in relation to archaeology, in addition to those specifically identified in this section of the report. I am satisfied that they have been appropriately addressed in terms of the application and the information submitted by the applicant and that no significant adverse effect is likely to arise.

8.6. **Biodiversity**

- 8.6.1. Chapter 5 of the EIAR details the designated sites within 2km of the site. These include the Royal and Grand Canal pNHA, South Dublin Bay SAC and South Dublin Bay and Tolka Estuary SPA.
- 8.6.2. The site has been part of the built environment of Dublin City for a long time and the immediate area is entirely composed of buildings and artificial surfaces, with limited potential for vegetation. There are no significant areas of open space or clusters of mature trees within 100m of the site. There is no suitable habitat for protected species, with the exception of certain species of bat. However, the buildings were assessed for the suitability to host bat roosts and the lack of semi-natural vegetation in the immediate location is considered to be a significant limiting factor, while obvious roof cavities etc were also absent. A dedicated bat survey was not, therefore, carried out. The roof of the building was inspected for nesting birds and no activity was recorded.
- 8.6.3. During construction buildings and artificial surfaces will be removed. In the absence of significant vegetation, mammalian and other species on the site, the impacts on biodiversity will be negligible. There is potential for pollution of water courses from surface water discharges during construction. The distance of the site from the River Liffey means that there is a buffer between potential pollution sources and this sensitive receptor. Measures to mitigate potential impact are detailed in Chapter 6 of the EIAR (discussed in more detailed below).

- 8.7. During the operational stage, foul wastewater arising from the proposed development will be sent to the treatment plant at Ringsend. The plant is not currently meeting its requirements under the Urban Wastewater Treatment Directive. The wastewater treatment plant discharges into Dublin Bay, which is classified as 'unpolluted' by the EPA despite long-running compliance issues at the plant. There is currently no evidence that non-compliance issues at the wastewater plant are having negative effects on features of high ecological value. While impacts on Dublin Bay SAC/SPA are not predicted to occur, a separate screening report for Appropriate Assessment specifically examines the impact of the project on Natura 2000 sites. This is discussed in more detail in Section 9.0 of this report.
- 8.7.1. The potential also exists for pollution from surface water run-off during the operational stage. The Greater Dublin Strategic Drainage Study (2005) identified issues of urban expansion leading to an increased risk of flooding and a deterioration in water quality. The new development will significantly improve on existing conditions, which includes no surface water attenuation measures. New attenuation measures will include a basement level storage tank and flow limiting device. The introduction of SUDS methods, rainwater harvesting and a green roof, will enhance the run-off characteristics of the site.
- 8.7.2. The report refers (section 5.3.2) to consultation with the Department of Arts Heritage and the Gaeltacht, who note that peregrine falcons are known to use the nearby Liberty Hall as a perching site and hunting station. It is recommended that a nesting ledge or suitable platform for peregrines be installed on the new building and that nest boxes for Swift be provided. The applicant has no issue in this regard. Should the Board be minded to grant permission for the development, I recommend that a condition be attached requiring the applicant to install these measures to promote biodiversity.
- 8.7.3. I accept that the site is of limited ecological interest and that the potential impacts that could arise which would impact on the water environment are capable of effective mitigation. Whilst there was no evidence of birds nesting on the roof, it is recommended that the building should be further inspected prior to any demolition works and that if nesting birds are found that construction be avoided.

8.7.4. I have considered all of the written submissions made in relation to biodiversity, in addition to those specifically identified in this section of the report. I am satisfied that they have been appropriately addressed in terms of the application and the information submitted by the applicant and that no significant adverse effect is likely to arise.

8.8. Land & Soils

8.8.1. Chapter 6 of the EIAR describes the existing environment in terms of geology, hydrogeology and contaminated ground. Information on geology is extracted from the Geological Survey of Ireland and the site investigation carried out (details appended to Chapter 6). Superficial deposits in the area consist of fluvial alluvium with glacial till. The underlying bedrock is Carboniferous-aged Limestone. Based on historical evidence, the site was formed from reclaimed land along the River Liffey as part of the development of George's Quay. The site has been occupied by various residential housing and warehousing since the early 1800's and there is no evidence that previous land uses had significant potential for contamination.

8.8.2. The main impacts will arise during the construction phase which have the potential to impact on soils, subsoils and bedrock through exposure of contaminated ground, soil removal, soil erosion, ground movement, dewatering, contamination of ground water creation of barriers to groundwater flow etc. The EIAR sets out a range of mitigation measures to address these impacts. These include the implementation of standard best practice construction methodologies (to minimise soil erosion, dust, noise/vibration, contamination of ground water etc) in addition to site specific measures to ensure that the stability of adjoining buildings (Kennedy's public house) is not compromised, and the input of a specialist hydrologist to review the implication of basement construction on groundwater flows.

8.8.3. It is not envisaged that there will be any significant impacts on bedrock geology, soils or groundwater arising following the completion of the development. No remedial or reductive measures are, therefore, required during the operational stage of the proposed development. I accept that there is potential for impacts associated with the construction stage but that these can be effectively mitigated.

8.8.4. I have considered all of the written submissions made in relation to land and soils, in addition to those specifically identified in this section of the report. I am satisfied that

they have been appropriately addressed in terms of the application and the information submitted by the applicant and that no significant adverse effect is likely to arise.

8.9. Water

- 8.9.1. The site consists of buildings and hard surfaces and is impermeable. There are no water courses crossing the site. The River Liffey runs to the north of the site. The site is located in Flood Risk Zone B and a flood risk assessment carried out as part of the application indicates that the primary risk is from pluvial flooding.
- 8.9.2. Both foul and surface water currently drain into a combined sewer flowing along Tara Street. There is no attenuation or flow control of surface water within the site. As part of the proposed development, the applicant will provide a new storm water and attenuation system on the site. The system will be in the form of an underground storage tank (Basement Level -1) which will be sized to cater for the 1 in 100 year storm event, with an additional 30% capacity to cater for increased precipitation due to climate change. It will be fitted with a flow control mechanism and storm water flows will not exceed the recommended minimum value of 2 l/s.
- 8.9.3. Whilst the proposed development will generate more effluent than the existing, the provision of on-site storm water attenuation will restrict the volume of storm water entering the public drainage network during periods of extreme rainfall. The proposal will be an improvement on existing arrangement with separate sewers for both foul and surface water within the site boundary. The sewers will discharge into a combined manhole at the site boundary but will be provided with a 'dead-leg' spur for future separation of the public drainage system by the local authority.
- 8.9.4. The main impacts associated with the development will occur during the construction stage and involve the potential for contaminants such as suspended solids, hydrocarbons, cement, etc to enter the surface water system causing pollution. An Environmental Management Plan will be prepared by the contractor setting out the standard best practice measures that will be employed to mitigate potential impacts on the water environment. Once constructed routine run-off will be discharged via grit/hydrocarbon interceptors prior to discharge to the drainage system. The removal of surface water from the existing combined sewer will reduce the hydraulic loading on the existing sewerage network and the WWTP at Ringsend. The SuDS proposals

will improve the quality and reduce the quantity of surface water discharging into the existing system.

8.9.5. I accept that the impacts that will arise during construction can be effectively mitigated and that following construction the development will incorporate measures that will significantly improve on existing conditions in terms of the quantity and quality of storm water discharging into the public collection system and the wider environment.

8.9.6. I have considered all of the written submissions made in relation to water, in addition to those specifically identified in this section of the report. I am satisfied that they have been appropriately addressed in terms of the application and the information submitted by the applicant and that no significant adverse effect is likely to arise.

8.10. **Air & Climate**

8.10.1. The potential impacts of the development on Air Quality & Climate are discussed in Chapter 8 of the EIAR. Details of baseline air quality is provided from data collected at EPA monitoring stations which provides data on background concentrations of key pollutants including NO₂, and PM₁₀. The data collected over the period 2011-2016 indicates compliance with ambient air quality standards for both pollutants. Based on the EPA data an estimate of background concentrations for NO₂ and PM₁₀ and other pollutant concentrations in the region of Tara Street is provided.

8.10.2. The main impacts on air quality will arise during the construction period with the potential for demolition and construction to generate dust and cause nuisance and potential health impacts to sensitive receptors. While dust from construction activities tends to be deposited within 200m of a construction site, the majority of the deposition occurs within the first 50m. In terms of sensitive receptors downwind of the site, there are numerous office buildings on George's Quay including the Ulster Bank Office and Tara Street. The river Liffey is within 20m of the site as is the residential space associated with Kennedy's pub. As there are less than 10 highly sensitive receptors within 20m of the proposed development, the sensitivity of the area to dust soiling effects on people and property is assessed as 'medium' according to IAQM guidance. The sensitivity of the area to human health impacts is considered 'low' under this guidance.

8.10.3. The EIAR assesses the level of dust mitigation required having regard to the potential for dust emissions from the major dust generating activities including demolition, earthworks, construction and trackout. A suite of dust minimisation measures are set out in Appendix 8.2 of the EIAR (Dust Minimisation Plan). These mitigation measures are standard practice on construction sites and will include the erection of site hoarding, specific measures to prevent dust nuisance during the demolition phase as set out in the demolition plan, implementation of material handling systems, road cleaning, vehicle wheel cleaning etc., and monitoring. Having regard to the short term and temporary nature of the construction activity and the standard mitigation measures proposed, I accept the conclusion reached in the EIAR that the proposed construction activities will have a negligible impact on air quality and climate.

8.10.4. During the operational stage there will be an increase in traffic, estimated at AADT of c.170 vehicles on the link between Tara Street and Poolbeg Street. The level of traffic generation falls below the UK DMRB screening criteria for air quality assessment. The proposed development is located close to major public transport links and is expected to be dependent on public transport. The provision of limited car parking space would encourage public transport use and a shift away from private car usage in line with the aims of the National Climate Change Strategy. The incorporation of energy efficiency measures into the design of the building will also reduce the impact of the proposed development on climate. I accept that the conclusions reached in the EIAR that the operation of the proposed development will result in negligible impacts on air quality and climate.

8.10.5. I have considered all of the written submissions made in relation to air and climate, in addition to those specifically identified in this section of the report. I am satisfied that they have been appropriately addressed in terms of the application and the information submitted by the applicant and that no significant adverse effect is likely to arise.

8.11. **Noise & Vibration**

8.11.1. The likely noise and vibration impacts arising from the proposed development are assessed in Chapter 8, both short term in association with construction and long term associated with the operation of the building.

- 8.11.2. A noise survey was conducted to establish the baseline scenario. Noise surveys were carried out on the western façade of Tara House facing Tara Street and on the eastern façade facing Tara Street station. The survey showed that the noise environment was dominated by road and rail traffic noise, typical of a busy urban setting. The closest noise sensitive receptors are residential dwellings located to the west of the site at Exchange Court Apartment (c 30m from nearest boundary) and the residential spaces associated with Kennedy's bar to the north (c 7-10m).
- 8.11.3. There are a range of activities that will occur during construction with the potential to cause noise and vibration. Table 9.8 of the EIAR provides indicative construction noise calculations for various activities at varying distances. These are based on an assumed number of plant items operating at any one time and are indicative only. High levels of construction noise are calculated at the adjacent building to the north (Kennedy's public house) which exceed the recommended construction noise limits of between 70 -75dB LAeq Monday-Friday (07.00-19.00hours) particularly during the initial site works (intrusive ground breaking, demolition and excavation). These noise levels will be exceeded at distances of up to 15m from the site boundary in the absence of any noise mitigation.
- 8.11.4. Vibration during construction is associated with piling, demolition and ground breaking activities. Vibration levels that will occur will be within recommended thresholds and are therefore not expected to result in any cosmetic/structural damage to any building in the vicinity, including the Protected Structure. All construction activity will operate below the recommended vibration criteria and below a level that would cause any disturbance to occupants of adjacent buildings.
- 8.11.5. In order to mitigate impacts during construction a Construction Noise & Vibration Management Plan will be drawn up by the contractor and implemented during construction. It will detail standard best practice measures that will be employed to reduce noise related impacts. These will include the selection of quiet plant, noise control at source, screening, liaison with the public, monitoring, controls on hours of working etc. Subject to the implementation of these mitigation measures, I accept that noise during the construction phase, which will be short term and temporary, should be capable of being effectively mitigated to reduce potential negative impacts on sensitive receptors and the wider community.

- 8.11.6. Operational noise will arise from mechanical and electrical plant required to service the building, additional traffic and the rooftop terrace associated with the restaurant. It is anticipated that plant will be housed internally at basement and ground mezzanine within enclosed plant rooms. Specific details of the type/number of plant items required is not yet available. In this case, it is best practice to set appropriate emission limits relating to plant items which will be used in the detailed design stage. Subject to these mitigation measures, I accept that the operation of mechanical and electrical plant associated with the operation of the building will not result in significant adverse impacts on the occupants of the building or surrounding property.
- 8.11.7. It is noted in the EIAR, that to increase traffic noise levels by 1dB, traffic volumes would need to increase by 25% approximately. The provision of 16 no. underground car parking spaces and deliveries to the building will generate additional traffic. The overall traffic increase associated with the proposed development on peak hourly flows is estimated at <1%. It is concluded, therefore, that the noise levels associated with the increase in traffic will be inaudible and imperceptible. Car parking will be provided at basement level and not expected to generate any significant noise impact. Given the limited capacity of the rooftop terrace and its position on the 21st floor and its elevation above adjacent buildings, noise impacts will not be significant.
- 8.11.8. I accept that no mitigation is required in respect of the minimal increase in traffic/car parking that will be associated with the proposed development and that the rooftop terrace is unlikely due to its elevation to result in any significant negative impacts on surrounding development.
- 8.11.9. I have considered all of the written submissions made in relation to noise and vibration, in addition to those specifically identified in this section of the report. I am satisfied that they have been appropriately addressed in terms of the application and the information submitted by the applicant and that no significant adverse effect is likely to arise.

8.12. **Wind**

- 8.12.1. The potential effects of the proposed development on the pedestrian level wind microclimate around the proposed building and open spaces, and in the area immediately surrounding the site is assessed in Chapter 10. It compares the existing

baseline conditions with the direct/indirect effects arising from the proposed development.

- 8.12.2. The effects of the changes upon the wind microclimate were assessed in a study undertaken by BRE (Appendix 10.1 of the EIAR) for the previous scheme. The changes incorporated into the current proposal have all been assessed with regard to their effect on the wind microclimate. It is concluded that the changes to the original scheme are such that they will have a negligible impact on the ground level, low level podium and roof top terrace wind conditions. The wind conditions at the new level 18 and 21 roof top terraces were not assessed as part of the original scheme. The terraces are near to the top of the tower and wind tunnel testing has shown that provided suitable edge protection is provided (e.g. balustrades at least 1.4m tall), the terraces are likely to be suitable for amenity activity.
- 8.12.3. During the construction stage, wind conditions are expected to become somewhat windier as the shelter provided by the existing buildings is removed. These impacts will be temporary and short term and not expected to cause nuisance. As the construction of the building advances it is expected that wind conditions will worsen in some localised areas as the building becomes progressively taller than the immediate surroundings. However, it is concluded that the conditions are unlikely to be significant worse than those around the existing site.
- 8.12.4. Once the building is completed, there will be no adverse impact on ground floor public spaces and public realm. The wind conditions are suitable for the intended pedestrian usage. The wind conditions at the lower level podium are suitable for amenity usage (strolling in winter and any intended activity in summer) and the roof top terraces are suitable for their intended usage throughout the year. The conclusion reached is that compared with the existing site, the wind conditions are not made worse by the proposed development and the wind conditions are suitable for the intended pedestrian activities. The impacts are assessed as negligible and no avoidance, remedial or mitigation measures are necessary.
- 8.12.5. I have considered all of the written submissions made in relation to wind microclimate, in addition to those specifically identified in this section of the report. I am satisfied that they have been appropriately addressed in terms of the application

and the information submitted by the applicant and that no significant adverse effect is likely to arise.

8.13. Sunlight and Daylight

- 8.13.1. This chapter of the EIAR provides an assessment of the impact of the proposed development on access to sunlight and daylight. A three-dimensional digital model of the proposed development and of existing buildings in the area was constructed. This was based on drawings and three dimensional models supplied by the applicant, on drawings and information available from Dublin city Council's online planning register and with reference to on-site, satellite and aerial photography. It is noted that as the development on the former Apollo House site is advancing, the three-dimensional model of the built environment includes Apollo House as it existed prior to its demolition.
- 8.13.2. To assess impacts on sunlight, using the digital model, shadows were cast at several times of the day at summer and winter solstices and at the equinox. Shadow study diagrams showing the existing shadow baseline and the proposed shadow environment are appended to the report. The results of the detailed analysis of sunlight access to sample rooms is also attached.
- 8.13.3. It is acknowledged in the EIAR that as the application site currently accommodates low rise structures and is partially vacant, it is evitable that there will be a material change to the shadow environment. The greatest potential for impacts will result when the building is completed. According to the EIAR the proposed development will result in 'imperceptible' to 'moderate' additional overshadowing of the block to the west during the morning throughout the year, but the duration is likely to be short. The shadow of the proposed development will have moved away from the buildings on the western side of Tara Street by noon. The analysis indicates that there will be a considerable reduction in sunlight access to rear facing rooms in the public house, with the level of access received by these windows likely to fall well below the minimum level recommended by the British Standard. As the proposed development involves the major redevelopment of a brownfield site in an inner city location, characterised by high density development, it is acknowledged that the scope for mitigation of this impact is limited.

- 8.13.4. The proposed development will also result in 'moderate' additional overshadowing of a portion of the railway line and the DART station platform and 'imperceptible' to 'slight' additional overshadowing of some commercial buildings at George's Quay Plaza and the Ulster Bank Group Centre during the afternoons and evening throughout the year.
- 8.13.5. According to the assessment, while there is no potential for the proposed development to result in additional overshadowing of the Custom House for the majority of the year, shadows cast by the building will extend to the front façade of the Custom house for a short time in the afternoon during November, December and January. However, it is concluded that the additional overshadowing, which will be of limited duration, is least likely to be noticed as the shadow environment of the city centre is at its most dense at this time of the year. This is particularly the case given that the Custom House is already overshadowed in the afternoons of the winter months by the George's Quay Plaza development. The impact of the shadow cast by the proposed development on sunlight access to the Custom House is assessed to be so minor as to be 'imperceptible'.
- 8.13.6. The EIAR also provides an analysis of the potential impact of the proposed development on daylight access to existing buildings outside the site and in rooms in buildings in close proximity. The worst case scenarios were analysed where rooms with the lowest levels of daylight were studied. The analysis considered No's 11-15 Tara Street to the west, Ashford House to the south, Georges Quay Plaza and the Ulster Bank Group Centre to the east, and Kennedy's public house to the north. ARC Consultants did not have access to the rooms analysed in the buildings and assumptions were made about the use of the room, size and layout of interior etc. Whilst the analysis is acknowledged to be notional, it is considered in the EIAR to be instructive in terms of the likely extent of change in the daylight environment in existing buildings in proximity to the application site.
- 8.13.7. With regard to No's 11-15 Tara Street which lies to the west side of Tara Street, the extent of change in daylight access to east facing rooms in No's 11-15 Tara Street is likely to be noticeable and is assessed as 'moderate'. In the case of Ashford House, the impacts will vary from 'imperceptible' to 'moderate' with the greatest impacts on rooms directly opposing the proposed development in close proximity. The impacts on George's Quay Plaza and the Ulster Bank Group Centre to the east of the railway

line are assessed as 'imperceptible'. The proposed development is likely to result in a considerable reduction in daylight access to the rear facing rooms of the public house to a level below the minimum recommended by the British Standard for achieving a predominantly daylight appearance (i.e. 2%ADF).

8.13.8. No mitigation measures are proposed to address potential impacts on daylight access to rooms in buildings surrounding the subject site. The potential reduction in daylight is considered to be consistent with emerging trends for development in the area, having regard to the scale and extent of development along George's Quay and along Tara Street and local, regional and national policy for densification of the urban area. It is concluded that there is limited scope for mitigation measures which would preserve a sustainable level of density.

8.13.9. I accept that the proposed development will result in a change in the sunlight and daylight environment of the area. The number of residential receptors that will be significantly affected will be limited to Kennedy's public house. Mitigation of these impacts is not possible and has to be balanced against the overall gain that will be achieved through the development of this inner city site in a strategic location proximate to good transport infrastructure in line with national and local policy measures and guidance.

8.13.10. I have considered all of the written submissions made in relation to sunlight/daylight, in addition to those specifically identified in this section of the report. I am satisfied that they have been appropriately addressed in terms of the application and the information submitted by the applicant and that no significant adverse effect is likely to arise.

8.14. **Material Assets**

8.14.1. Chapter 12 of the EIAR is dedicated to the assessment of the development on Material Assets. This chapter relates to physical resources in the environment and assesses how they will be impacted by the proposed development. These include assets of both natural origin including non-renewable resources such as minerals/soil and renewable sources such as biodiversity. Assets of human origin include transport infrastructure, drainage infrastructure, water supply, natural gas, electricity, telecommunications etc.

- 8.14.2. The main impacts associated with construction will be short term and neutral. The implementation of the mitigation measures set out under the other environmental topics will ensure that there is unlikely to be any significant residual impact during the construction stage. Impacts during the operational phase will generally be long term and neutral e.g. increased demands on infrastructure such as water, gas, electricity supply, telecommunications infrastructure etc.
- 8.14.3. There will be positive impacts associated with the operational stage such as the redevelopment of an existing brownfield site, the rejuvenation of Tara Street as a transport hub, improved pedestrian connectivity, and the provision of new office space and employment.
- 8.14.4. I have considered all of the written submissions made in relation to material assets, in addition to those specifically identified in this section of the report. I am satisfied that they have been appropriately addressed in terms of the application and the information submitted by the applicant and that no significant adverse effect is likely to arise.

8.15. Interactions between environmental factors.

- 8.15.1. Interactions between environmental factors are discussed in each chapter of the EIAR. It has been demonstrated that most of the interactions are neutral in impact when the mitigation measures proposed are incorporated into the design, construction or operation of the proposed development and no issues have been identified in terms of overall cumulative effects.

8.16. Townscape, Landscape, Heritage and Visual Impact Assessment – Volume 11

- 8.16.1. The report referred to as the TLHVIA forms Volume 11 of the EIAR. At chapters 8, 9 and 10 respectively the effects of the proposed development are assessed in relation to townscape and landscape, heritage, and visual receptors.
- 8.16.2. **Townscape and Landscape** – the impact of the development on a number of character areas in the vicinity of the site is assessed. A total of 6 no. character areas are identified.
- 8.16.3. *Character Area A – Liffey and the Quays*: The river bends and widens at the position of the development site which is also the place where Liberty Hall and the Custom House stand. This is a significant place in the city and forms a place of transition

from the intimate urban river quality in the west to the broader harbour character of the river in the east.

- 8.16.4. The report concludes that the proposed development would be an elegant singular structure in long views. It would be perceived together with Liberty Hall in views from the river. The combination of the two buildings would act as a visual marker for the city centre along the Liffey corridor. Views of the Custom House would not be affected. It would combine with Apollo House, Hawkins House and the City Quay developments and signal a welcome re-invigoration of this part of the city centre. The overall effect would be moderate and beneficial.
- 8.16.5. *Character Area B - Custom House and Bus Aras*: This is an important area architecturally containing the Custom House, Bus Aras and Georgian buildings on Beresford Place. The proposed development will affect views of the Custom House to the north, although the value of these views is to some degree limited (Views 11-14 in Chapter 10). The Custom House is already surrounded by large scale modern structures and the new addition is considered to be of high quality. The overall impact is assessed as moderate and beneficial with no appreciable cumulative effect.
- 8.16.6. *Character Area C – Trinity College Campus*: Contains many buildings of architectural merit and protected structures. The development would be visible from, but not dominant over, parts of the college. It is the top floor that would mostly be seen, glimpsed through gaps in the buildings and above buildings in extreme positions. From the main axial approach into the college only very minor visibility would be possible. Having regard to the number of contemporary elements that make up the campus, the visibility of the building would not result in significant impacts on its character. The overall impact is assessed as moderate and beneficial with no appreciable cumulative effect.
- 8.16.7. *Character Area D – College Green*: Contains a number of significant buildings including Bank of Ireland and many protected structures. There would be views of the new building from College Green between Bank of Ireland and the College Regent's House. It is not considered that the proposed development would impact on the spatial quality of College Green or its protected structures. The overall impact is assessed as moderate and beneficial, with a diminishing cumulative effect (arising

from the backdrop that would be created by the development of Apollo House, Hawkins House and College House.

- 8.16.8. *Character Area E – Georgian Clusters*: Two main Georgian clusters are identified, one to the north and one to the south of the River Liffey (Fig 8.33). The one to the south has the more coherent set of Georgian streets and squares. The northern area is more complex and fragmented. The proposed development will not be visible from most parts of Georgian Dublin. Visibility would be restricted to the Custom House, Trinity College, College Green and very distant views from Henrietta Street, Frederick Street North, Parnell Square and Granby Row. As views will be distant there would be no significant effect on the character of the north or south core areas of Georgian Dublin. The overall impact, including the cumulative effect with other development in the area, is assessed as minor and beneficial.
- 8.16.9. *Character Area F - Georges Quay LAP*: The area has developed into a poor environment of mostly 20th century developments. The area is distinctive to its surrounds as it is the result of extensive development in the 1960's which eroded the historic grain and layout of this part of the city. Alongside office complexes with inactive frontages are pockets of smaller grain buildings with highly active frontages to the west. The effect of the proposed development is assessed as major and beneficial arising from the regeneration of the area with a high-quality building. The combined effect with other developments would improve public realm with major and beneficial effects.
- 8.16.10. Chapter 9 assesses the impacts of the development on built heritage receptors including Conservation area, Architecture Conservation Areas and Protected Structures. The conclusion reached in the report is that there would be no effect on the significance of Dublin City Conservation Area, or on the 4 no. Architectural Conservation Areas proximate to the site or the views out from these areas (Mountjoy Square ACA, O'Connell Street ACA, Grafton Street ACA and South City Retail Quarter ACA). The impacts on 12 no. protected structures were also considered (listed in Section 9.41). The overall conclusion reached was that the proposed development would have no effect on the significance of the buildings, with the exception of No. 10 Georges Quay (Kennedy's Public House to the north of the site), which would have its setting and significance enhanced.

8.16.11. The visual impact of the proposed development is assessed in Chapter 10. Views of the site are assessed from a wide range of locations around the city centre. The conclusion reached in the assessment is that the proposed development will have a major and beneficial effect on five views, would have moderate and beneficial effects on 23 no. views, minor and beneficial or neutral effects on 15 no. views and no change on 13 no. views.

8.16.12. An assessment of the impact of the development on townscape, landscape and the visual amenities of the area is provided in Section 7.4 of the Planning Assessment of this report and is not repeated here. It concludes that the modifications to the design proposed as part of the scheme are not sufficient to address the Board's previous reason for refusal in terms of impacts on the historic core and important views and vistas in the city..

8.16.13. I have considered all of the written submissions made in relation to townscape, landscape, heritage and visual impact, in addition to those specifically identified in this section of the report. I am satisfied that they have been appropriately addressed in terms of the application and the information submitted by the applicant and that no significant adverse effect is likely to arise.

8.17. **Cumulative Impacts**

8.17.1. I accept that when taken in conjunction with other permitted development in the locality, including the redevelopment of the Apollo House and Hawkins House sites, there is potential for cumulative impacts, particularly on the city's skyline. However, I would point out to the Board that the proposed development will significantly exceed the height of these buildings by c. 10 storeys.

9.0 **Appropriate Assessment**

9.1. **Introduction**

9.1.1. The EU Habitats Directive 92/43/EEC provides legal protection for habitats and species of European importance through the establishment of a network of designated conservation areas collectively referred to as Natura 2000 or 'European sites'. The network includes sites designated as Special Areas of Conservation (SAC) under the Habitats Directive and Special Areas of Conservation (SPA)

designated under the Birds Directive. In general terms they are considered to be of exceptional importance for protecting rare, endangered or vulnerable habitats and species within the European Community.

- 9.1.2. Under Article 6(3) of the Habitats Directive, an Appropriate Assessment must be undertaken on any plan or project not directly connected with or necessary to the management of a European site but likely to have a significant effect on the site in view of its conservation objectives. The proposed development is not directly connected with or necessary to the management of a European site and accordingly screening for Appropriate Assessment was carried out.

9.2. Screening for Appropriate Assessment

- 9.2.1. A Stage 1 Screening Report is contained in the application documentation. It considers 3 no. Natura 2000 sites which are considered to fall within the zone of influence of the project. These include;

- South Dublin Bay and River Tolka Estuary SPA (Site Code 4024)
- South Dublin Bay SAC (Site Code 0210) and
- Poulaphouca Reservoir SPA (Site Code 4063).

Poulaphouca Reservoir SPA, whilst a considerable distance from the site was included as it provides a water supply for the proposal. The report also noted that there is no pathway between the site and two other Natura 2000 sites, being North Dublin Bay SAC and the North Bull Island SPA. The report however goes on to list the features of interest in the SPA's in Dublin Bay (North Bull Island SPA and the South Dublin Bay and Tolka Estuary SPA) and the Poulaphouca Reservoir SPA and the qualifying interests for South Dublin Bay SAC and North Dublin Bay SAC. The conservation objectives for each site are also noted.

The report considers that there is no likelihood of significant effects on any Natura 2000 site arising from the proposed development, either alone or in combination with other projects. The proposed development is not located within or adjacent to any SAC or SPA and due to the separation distance between the subject site and the South Dublin Bay SAC and the South Dublin Bay and Tolka Estuary SPA, there is no pathway for loss or disturbance of habitats.

Whilst there is a pathway via the River Liffey for surface water and wastewater via the Ringsend wastewater treatment plant, the issues with the WwTP are being dealt with, which will see an improvement in the quality of effluent discharging to Dublin Bay. Under the improvements required for drainage infrastructure under the Greater Dublin Drainage Study, there is likely to be long term improvement to the quantity and quality of storm water.

The Board is required to undertake Appropriate Assessment. In accordance with departmental guidance it is normal practice to identify Natura 2000 sites within a 15km radius of the site. I accept that this would include a significant number of sites where the potential for direct/indirect significant impacts would be ruled out due to the lack of hydrological or ecological connectivity. There are 4 no. sites which are associated with Dublin Bay, which could fall within the potential zone of influence of the proposed development. Arising from the separation distance between the application site and the designated sites, there is no potential for direct impacts on any Natura 2000 sites. However, due to the proximity of the site to the River Liffey, which discharges into the bay, there is potential for hydrological connectivity between the site and these designated European sites. The European sites are;

- 000206 North Dublin Bay SAC (Site Code 000206)
- 000210 South Dublin Bay SAC (Site Code 000210)
- 004006 North Bull Island SPA Site Code (004006)
- 004006 South Dublin Bay & River Tolka SPA (Site Code 004024).

9.2.2. **North Dublin Bay SAC** is located 5.5km from the site of the proposed development.

The site covers the inner parts of north Dublin Bay extending from the Bull Wall to the Martello Tower at Howth Head. The site is selected for a number of coastal habitats and species listed on Annex 1/11 of the EU Habitats Directive which include;

[1140] Tidal Mudflats and Sandflats

[1210] Annual Vegetation of Drift Lines

[1310] *Salicornia* Mud

[1330] Atlantic Salt Meadows

- [1410] Mediterranean Salt Meadows
- [2110] Embryonic Shifting Dunes
- [2120] Marram Dunes (White Dunes)
- [2130] Fixed Dunes (Grey Dunes)* (* = priority)
- [2190] Humid Dune Slacks
- [1395] Petalworth (*Petalophyllum ralfsii*)

9.2.3. **South Dublin Bay SAC** is located c 2.5km from the site. It lies south of the River Liffey and extends from the South Wall to the west pier at Dun Laoghaire. It is an intertidal site with extensive areas of sand and mudflats. The site is selected for a number of coastal habitats/species listed on Annex 1/11 of the Habitats Directive and includes the following;

- [1140] Tidal Mudflats and Sandflats
- [1210] Annual Vegetation of Drift Lines
- [1310] Salicornia and other annuals colonising mud and sand
- [2110] Embryonic Shifting Dunes

9.2.4. **North Bull Island SPA** is located 7km from the site. It covers the inner part of north Dublin Bay, with the seaward boundary extending from the Bull Wall lighthouse across to Drumleck Point at Howth Head. The site overlaps with North Dublin Bay SAC and adjoins South Dublin Bay & River Tolka Estuary SPA.

9.2.5. The site is of special conservation interest for the following species: Light bellied Brent Goose, Shelduck, Teal, Pintail, Shoveler, Oystercatcher, Golden Plover, Grey Plover, Knot, Sanderling, Dunlin, Black-tailed Godwit, Bar-tailed Godwit, Curlew, Redshank, Turnstone, and Black-headed Gull. The site is also of special conservation interest for holding an assemblage of over 20,000 wintering waterfowl. It supports internationally important populations of three species, Light-bellied Brent Goose, Black Tailed Godwit and Bar-tailed Godwit.

9.2.6. **South Dublin Bay & River Tolka SPA** is located 3.5km from the site. It comprises a substantial part of Dublin Bay. It includes the intertidal area between the River Liffey and Dun Laoghaire and the estuary of the River Tolka to the north of the River Liffey,

as well as Booterstown Marsh. The site is of special conservation interest for the following species: Light bellied Brent Goose, Oystercatcher, Ringed Plover, Grey Plover, Knot, Sanderling, Dunlin, Bar-tailed Godwit, Redshank, Black-headed Gull, Roseate Tern, Common Tern and Artic Tern. Four of the species that regularly occur at this site are listed on Annex 1 of the E.U Birds Directive, i.e. Bar-tailed Godwit, Common Tern, Arctic Tern and Roseate Ter. The site and its associated waterbirds are of special conservation interest for Wetlands and Waterbirds.

- 9.2.7. Site specific Conservation Objectives have been published for each of the four designated sites. The majority of the qualifying habitats are marine and groundwater dependent with varying sensitivities to hydrological change. The proposed development will not compromise or change these environmental conditions. Qualifying interests including 'Mudflats and sandflats not covered by seawater at low tide' and 'Wetlands and Waterbirds', which would be sensitive to polluting pressures including run-off. The overarching objective for each feature is to maintain/restore the favourable conservation condition of the various habitats/species and to maintain the favourable condition of bird species and the habitats that support them.

9.3. Potential Impacts on Natura 2000 sites

- 9.3.1. The proposed development is not directly connected with or necessary to the management of any of the Natura 2000 sites and therefore potential impacts must be considered.
- 9.3.2. The site is well removed from all Natura 2000 sites, which eliminates the potential for direct effects on qualifying habitats or species. The construction stage of the project will involve excavation below ground level, the storage of stockpiled material, pumping of ground water etc., which has the potential to release sediment, contaminated material/water, hydrocarbons and other polluting material to the drainage system that discharges into the River Liffey. The river's outfall is into Dublin Bay, creating the potential for indirect impacts on the four Natura 2000 sites associated with the bay.
- 9.3.3. The proposal is designed to ensure that demolition and construction will be undertaken in a manner that will allow potential impacts to be managed to prevent impacts on the water environment. This will be achieved through a series of mitigation measures that will be incorporated into an Environmental Management

Plan, to be prepared by the contractor in advance of the works. It will set out measures to control run-off and the discharge of pollutants to the water environment, consistent with established and recognised measures including sediment and hydrocarbon interception, containment of all hazardous materials (fuels, cleaning agents etc), appropriate storage of stockpiled materials etc. Subject to the implementation of the proposed mitigation measures, I accept that the potential for significant effects on the integrity of any Natura 2000 site, or, its special conservation interests are not likely.

- 9.3.4. During the operational stages of the development surface water attenuation will be provided on site. This together with the provision of hydrocarbon interception, grease traps etc on outlets will improve both the quality and quantity of surface water discharging into the existing public collection system. The intensification of the use of the site will increase foul effluent discharging from the site, which is treated in the Ringsend WwTP prior to discharge into Dublin Bay. The WwTP is currently operating to capacity but there are plans currently before the Board to upgrade the system and improve the quality of effluent discharging to Dublin Bay and ultimately water quality in the bay.
- 9.3.5. The screening report submitted in support of the application concludes that there are no projects which can act in combination with the development which would result in in-combination effects. The Board will note that there are development proposals for the Hawkins House and Apollo House sites close to the subject site. These projects would also be required to adhere to best practice in their construction methodologies to avoid surface water run-off/contamination. I accept, therefore, that cumulative impacts are not likely to arise.
- 9.3.6. Having regard to the nature of the proposed development, the nature of the receiving environment which is a fully serviced urban site, the character and specific environmental conditions of the European Sites concerned, which are coastal habitats/species, the distance to the designated sites and the diluting effects of the River Liffey and Dublin Bay, 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 North Dublin Bay SAC (000206), South Dublin Bay SAC(000210), North Bull Island SPA (004006), South Dublin Bay & River Tolka Estuary SPA (004024), or any other 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.

- 9.3.7. I consider that adequate information has been provided to allow the Board to carry out Appropriate Assessment and to conclude on the basis of objective information, that the proposed development will not either alone or in combination with other plans or projects impact on the ecological or environmental conditions required to maintain the qualifying interests of any of the Natura 2000 sites at favourable conservation status.

10.0 Conclusion

- The proposed development which would secure the redevelopment of underutilised urban land in a prime city centre location strategically positioned beside a major transport node, would be consistent with national and local policy measures and guidance which seeks to secure more compact and higher density development in city centre areas.
- The proposed development is consistent with the overall aims of the George's Quay LAP 2012, which identifies the site as a location for a building of up to 88m (22 storeys) in heights.
- It is accepted that there are environmental impacts associated with the construction stage but that these can be effectively mitigated,
- It is concluded that following the completion of the proposed development, there will be significant impacts on the historic core and built heritage of the city and on important views and vistas. These impacts cannot be mitigated. Whilst the proposal includes modifications to the design of the building, it is not considered that the scheme differs substantially from the previous proposal in terms of its overall scale, massing and visual impact to warrant a reversal of the Board's previous decision to refuse permission on the site.

11.0 Recommendation

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 be refused for the development for the reasons and considerations set out below.

12.0 Reasons and Considerations

Having regard to the prominent and sensitive location of the subject site by reasons of its important location within the historic city core, its relationship to the River Liffey, and its proximity to the Custom House and having regard to Policy SC7 and Policy SC17, as set out in the Dublin City Development Plan 2016/2022, which seek to protect important views and view corridors and to protect and enhance the skyline of the inner city and to ensure that all proposals for mid-rise and taller buildings make a positive contribution to the urban character of the inner city, it is considered that the proposed development, due to its scale and bulk, would seriously detract from the setting and character of the Custom House, one of the city's most important architectural set pieces, and would adversely affect the River Liffey Conservation Area and the O'Connell Street and Environs Architectural Conservation Area, Furthermore, the proposal would, by reason of visual intrusion, have a significant and detrimental impact on a number of important views and vistas in the city including From College Green, and the Trinity College Campus, as well as Lord Edward Street, the Five Lamps, Grandy Row, Frederick Street North, Parnell Street North, Henrietta Street, Kildare Street and Harcourt Street.

The proposed development would, therefore, seriously injure the urban character and visual amenities of the historic city core and would be contrary to the proper planning and sustainable development of the area.

Breda Gannon
Senior Planning Inspector

28th February 2019