



An
Bord
Pleanála

Inspector's Report ABP 303646-19

Development

Demolition of existing buildings.
Erection of part five and part eight storey, over double basement building incorporating (185 bedroom) hotel, a creative art studio, bar, public house lounge, site works and boundary treatments.

Location

Vicar Street, Molyneux Yard and Swifts Alley. Dublin 8.

Planning Authority

Dublin City Council.

P. A. Reg. Ref.

3972/18

Applicant

Vicar Street Hotel Ltd.

Type of Application

Permission

Decision

Grant Permission

Type of Appeal

Third Party X Grant

Appellant

Brid Smith TD and Councillor T McVeigh.

Date of Site Inspection

18th April. 2019.

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
3.4. Third Party Observations	6
4.0 Planning History.....	7
5.0 Policy Context.....	7
5.1. Development Plan.....	7
6.0 The Appeal	8
6.1. Grounds of Appeal	8
6.3. Planning Authority Response	10
6.5. Further Responses.....	Error! Bookmark not defined.
7.0 Assessment	16
8.0 Recommendation.....	20
9.0 Reasons and Considerations.....	20
10.0 Conditions	20

1.0 Site Location and Description

- 1.1. The site of the proposed development has a stated area of 1,288 square metres, is rectangular in shape, is to the east side of Molyneux Yard and the west side of Vicar Street and is adjacent to the south boundary of the Vicar Street Music Centre which has frontage onto Thomas Street and Vicar Street. There is a disused industrial building in concrete construction with cladding at the upper level on the site. At the northern end at the rear of the Vicar Street Music Centre there are steel gates opening onto a yard area adjoining the Music Centre structure. The space to the south side which is enclosed by fencing circa two metres in height and overlooked on the north side by a mural of Michael Mallin, is surfaced in bitumen and marked out as a small basketball and soccer pitch.
- 1.2. Apartments at St Michael House are located on the east side of Vicar Street and further blocks are to the south and east along with two storey terraced houses. St Catherine's Church and Hall are to the west side of Molyneux Yard along with other properties with frontage onto Meath Street.

2.0 The Proposed Development

- 2.1. The application lodged with the planning authority indicates proposals for:

Demolition of all existing buildings/structures, (approx 1,020 sqm GFA), and relocation of existing ESB substation to the ground floor of the proposed building fronting onto Molyneux Yard together with new switch room;

Construction of a part 5 and part 8-storey mixed use building over a double basement (approximately 7,977 square metres in GFA) providing for a new hotel (185 bedrooms) to sixth floor level and ancillary development including 21 cycle spaces at Basement (-1) level with ancillary plant and storage at basement (-2) level;

A Creative Art Studio (approximately 179 square metres GFA) at ground floor level.

A bar/public house with lounge, (approximately 340 square metres (GFA)

together with ancillary roof terrace along the southern and part eastern elevation at 7th floor level;

The building is arranged around an enclosed internal courtyard space a double height void to the ancillary dining/kitchen area at basement (-1) level serving the hotel. The building is set back at ground and first floor level from the southern, eastern and western site boundaries to provide lightwells serving basement -1 level. A main entrance is via an arched, internal, shared pedestrian and vehicular street running east-west across the northern part of the site connecting Vicar Street and Molyneux Yard;

The upper levels of the building (from first floor and above) cantilever over the internal street and the upper levels (from second floor and above) and cantilever over the proposed lightwells along the southern, eastern and western side boundaries, respectively.

- 2.2. According to the written submission, the proposed hotel is to be marketed in conjunction with events at the Vicar Street Music Centre and that it is intended to follow a concept in which a hotel and entertainment event at an adjoining centre are combined. It is submitted that this concept is successful at the 'O2' and at the Bord Gas Theatre, adjacent hotel facilities in the same ownership being available.

Accompanying the application are:

- a planning report,
- an architectural and urban design statement,
- an architectural heritage and conservation assessment,
- an archaeological impact assessment report,
- verified photomontages and visual impact assessment report,
- a daylight and sunlight report,
- a site-specific flood risk assessment,
- an engineering services report,
- an outline construction and demolition waste management plan,
- an outline construction methodology and phasing management plan,

- an energy and sustainability report and,
- an appropriate assessment screening report

2.3. A request for additional information was issued on 14th November, 2018 in respect of issues raised in the initial report of the Transportation Planning Division (See para,2.4.4 below.) A response was is received on 6th December, 2019.

3.0 Planning Authority Decision

3.1. Decision

Further to issue and receipt of the additional information, the planning authority by order dated, 11th January, 2019, decided to grant permission for the proposed development. The conditions attached to the decision are of a standard nature but also include a requirement for preparation of a construction management plan, mobility management plan, a servicing management plan and provision for upgrades to the surface and lighting along the two lanes between the site and Thomas Street and a section 48 (2) (c) development contribution towards the costs of public realm improvement works.

3.2. Planning Authority Reports

3.2.1. Planning Reports

3.2.2. The planning officer in his initial and final reports concludes that the proposed development is acceptable, having noted the previous grant of permission for development on the site, in 2008, the duration of which was extended and comments that the proposed development is consistent with the requirements of the LAP for the site location and area.

3.2.3. Other Technical Reports

The Transportation Planning Division issued an initial report on the application and supplementary report on the further information submission on 6th December, 2018.

3.2.4. In the initial report of the Division, concerns were raised over:

(1) existing and proposed arrangements for pedestrian facilities and access owing to the intensification of footfall that would be attributable to the proposed development. Recommendations included improved pedestrian linkage to Thomas Street, setback for the eastern boundary to provide for a two metres footpath.

(2) clarification on management of pedestrian and vehicular conflict attributable to the proposed development and

(3) proposed arrangements for direction of customers to parking facilities in the area, no parking on-site parking being incorporated in the proposal.

3.2.5. The details provided in the response to these issues in the request for additional information received from the applicant's agent on 6th December, 2019 include details of pedestrian desire lanes and existing lanes and proposals for raised and shared surfaces incorporating lighting, and traffic calming along Vicar Street (which also accesses Michael Mallin House. which would attract most pedestrian traffic, a one way and booking system for servicing management and a commitment to partnering with a private carpark operator for residents' parking.

3.2.6. The supplementary report of the Transportation Planning Division indicated satisfaction with the details of the proposals provided in the further information submission subject to attachment of conditions if permission is granted.

3.2.7. The internal technical report of the City Archaeologist indicates no objection to the proposed development subject to attachment of an archaeological monitoring condition if permission is granted.

3.2.8. The Drainage Division and Waste Management Divisions indicate no objection to the proposed development, subject to the inclusion of conditions of a standard nature in their technical reports.

3.3. **Third Party Observations**

3.3.1. The third-party observations received from various parties to include, SICCDA groups of residents of Catherine Street, Residents of Michael Mullin House, Vicar Street and the Appellant Party raise issues which include concerns about:

- Potential for over representation of transient accommodation facilities, including student accommodation in the area whereas alternative land-use would facilitate integration into the community and local culture and a more positive impact overall.
- Adverse visual impact, having regard in particular to the architectural heritage character in the area's buildings and narrow street network.
- Overdevelopment, due to intensity, scale height and mass.
- Lack of carpark facilities and community facilities within the proposed development.
- Noise and disturbance at both construction and operational stages

4.0 Planning History

P. A. Reg. Ref. 2742/08 (PL230154): Permission which was granted, on 6th April, 2009 (following appeal) for an eight-storey hotel building with mixed uses including a creative art studio at ground floor level. The duration of this grant of permission up was extended for a further period, (to May, 2019) according to the planning officer's report. This grant of permission was not taken up.

P. A. Reg. Ref. 1047/08: Permission was refused for an eight-storey hotel building with mixed uses including a creative art studio at ground floor level on the basis of reasoning relating height, massing and proximity to properties on Vicar Street resulting in serious injury to residential amenities and development of property in the vicinity and, overshadowing, overlooking and visual intrusiveness.

The planning officer's report includes an account of several planning applications dating from 1990 relating to the application site and sites in the immediate environs.

5.0 Policy Context

5.1. Development Plan

The operative development plan is the Dublin City Development Plan, 2016-2022, (CDP) according to which the site location is within an area subject to the zoning objective: Z5: *"To consolidate and facilitate the development of the central area, and*

to identify and reinforce and strengthen and protect its civic design character and dignity”.

Indicative site coverage is 90 per cent and indicative plot ratio is 2.5-3.0 for development within Z5 zoned lands.

The location is in the zone of archaeological potential for Dublin City. (DU018-21)

The site location is within the area of SDRA 16 (Liberties and Newmarket Square) in which the site and lands to the east adjoining Francis Street and Carmanhall is identified as an opportunity site.

SDRA 16 provides for the Liberties Local Area Plan, 2008 (LLAP) the duration of which, as a statutory local area plan is extended to May, 2020 according to section 15.1.19. The LLAP is comprehensive and provides for multiple strategic and specific objectives inclusive of public realm and amenity improvements (MUGA) and enhancements, with the existing soccer and small basketball pitch and hard and soft landscaping integrated with parking being among them.

According to Chapter 7. 2, (Significant Redevelopment Sites Vicar Street and Iveagh Markets) of the LLAP the indicative building height for the area is six to eight storeys.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. An appeal was received from Ms Brid Smith, TD, Councillor Tina McVeigh of People Before Profit. The appeal is submitted on behalf of multiple residents who have provided addresses in the immediate and wider environs of the site location and others who have provided addresses in suburban locations. According to the appeal, redevelopment of the site is supported, provided that the development is in accordance the CDP and the LLAP, adopted under the reserved functions of the City Council.

6.1.2. It is submitted that:

- Guidelines which are only at consultation stage are being applied to decision making that is contrary to the CDP and LLAP, usurping the Reserved function of the Council.

- The view of the spire of St John's Lane Church, the highest in the city and centred on the mediaeval city and which is a beacon of the liberties and viewable from both sides of the Liffey is of intrinsic cultural heritage. It will be obscured by the proposed development in views from the grotto on Meath Street, from Ash Street, Catherine Street, Carman Hall and. Meath Street. Housing developments in the area, including a development in Newmarket Square in which a storey was omitted have been sympathetically designed to enable uninterrupted views from the Coombe and Newmarket.
- In-depth examination of possible permanent repercussions of the impact of the proposed and other hotel apart hotel and student accommodation developments in the area is necessary Over intensification of transient accommodation in the important historical urban residential area is a matter of serious concern. The planning officer did not address the concerns submitted in the objection at application stage on over-intensification of transient hotel and student accommodation development. Residential development is appropriate due to housing shortages instead of hotels.
- The proposed development has potential cumulative negative impact on the historic fabric and heritage of the Liberties.
- The hard-core playing pitch adjacent to the site is of intrinsic long-term value for recreational needs of residents in the locality and was recently upgraded. The area lacks a standard size pitch, but this facility is 'an incubator' for the community. There is a serious deficiency in open recreational space green and hardcore at below 17 per cent of recommended ratios in the area and 34 per cent below the recommended ratios in the CDP.
- There has been a wave of speculative proposals and planning applications for developments which have not been implemented resulting in significant dereliction and under use and run-down developments in the area. The impact on the community must be mitigated and it is requested that:
 - A dereliction study should be undertaken on all residential units in the area;
 - Should archaeological finds occur there must be immediate cessation,

- A baseline fabric study on the residential community should be established for the immediate area.
- The developer must meet with and consult with the community. A monitoring committee should be established.
- Lodgement of a Bond to ensure completion within the timeframe from the date of a grant of permission is required.
- A condition survey of the wall on which the Michael Mallin mural should be undertaken. It recognises and commemorates local and cultural and historical significance. Agreement is required about possible removal to an alternative site. The bricks in the wall are Dolphin Brick which is a local brick of cultural and industrial heritage.
- There is no provision for integration into the local residential community, and local cultural heritage and there is no community gain.

6.2. Planning Authority Response

There is no submission by the planning authority on file.

6.3. Applicant Response

A submission was received from Declan Brassil and Co on behalf of the applicant on 6th March, 2019. It includes a description of the proposed development the application and an account of the planning background, context and the application process. According to the response to the appeal:

- Consistency with CDP and LLAP
 - The Z5 zoning objective is intended to maximise intensive mixed-use development in the centre of the city. The proposed development in the complimentary mix of permissible uses in conjunction with the hotel and it will contribute to sustaining and enhancing vitality of the inner-city location.
 - The proposed development accords with Policy Objectives CEE15 and CEE 12 of the CDP.

- The current proposal is substantively the same as the development that was permitted under P A. Reg. Ref. 2742/08 which is acknowledged in the LLAP as having urban renewal and regeneration benefits. The LLAP identifies opportunity for change in character of the area by replacement of housing blocks and some industrial buildings. The LLAP defines Vicar Street as a backdrop to the surrounding streets to the west north and east and identifies the existing playground as an enclosed void space within this area. The current proposal will make significant contribution to regeneration and redevelopment in a range of uses and is a catalyst for further investment and regeneration in the Vicar Street area in replacing disused buildings with tourism and recreational use.
- Over intensification of transient hotel/student accommodation in the area.
 - Tourism is identified as a key economic pillar in section 6.5.3 of the CDP. There is a shortfall in supply of tourist accommodation which is a core component and vital to the tourism and leisure product. (Failte Ireland) It benefits local communities and increases commercial activity and employment in these areas. The accommodation offer affects that overall perception of the city as a designation. The site location is at a suitable location for hotel development and amenities which can also deliver Policy Objectives for regeneration of the city area and facilitating tourism and can contribute to the implementation of the core strategy of the CDP in delivering urban consolidation, regeneration, and public realm and urban design improvements and related policies.

To this end, the inspector in his report comments favourably in his report on the permitted proposal in this regard. (An extract is provided, and a copy of his report is attached to the submission.)

- Impact on view of Spire of John Lane Church.

The massing and the height replicate the permitted development. The planning officer assessed the visual impact and concluded that no major impact on the setting of the spire of St John's Lane Church and several other key features from key views both local and longer range would occur. It is and concluded that there would be no significant impact on

the setting of these features given the that the location to the area of the Music Centre venue. (An extract is provided.)

- Impact on surrounding historic built environment.
 - The inspector in his report on the previously permitted development concluded that the contemporary design would not only be in keeping with the historic building pattern in the area but would also be in keeping with potential enhancement of the wider environment, (An extract is provided, and a copy of his report is attached to the submission.)
 - The VIA provided with the application illustrates the proposed development in the streetscape context in shorter range views and in longer range views on the wider ACA and protected structures.
 - The Conservation report included with the application had regard to these views and concluded that the character or appearance of the ACA and protected structures would not be adversely affected and that there would be an improvement in the general appearance of the streetscape and area which accords with the views in the Inspector's report on the permitted development.
- Impact on Mural of Michael Mallin – which is of cultural significance.
 - It is acknowledged that the proposed development would result in loss of the mural of Michael Mallin on the southern boundary but Condition No 4 of the previously permitted development included a requirement for a financial contribution. towards public realm improvements. A similar condition could be attached if permission is granted and a similar mural could be incorporated in the redevelopment and financed through the contribution.
 - The historical and cultural associations of the existing mural is acknowledged. The applicant is willing to commission a bronze status of Mallin which could be placed in the vicinity and would accept a condition to this effect.

- Community Gain.
 - The LLAP identifies the public realm at the location as a space to be upgraded by way of a number of objectives for Vicar Square for an enhancement of hard and soft landscaping with a playground incorporated, minimal traffic landscaping and integration of parking into soft landscaping. This site is not under the control the applicant but the ongoing use and upgrading of the space us supported. A condition, similar to condition no 4 attached to the prior grant of permission in which a financial contribution is required would be acceptable to the applicant.
- Servicing Management and Pedestrian Safety.
 - It is not accepted that the swept path analysis is inaccurate with regard to access to the hotel entrance along Molyneux Yard The submitted engineering services report includes a servicing strategy in which the swept path analysis indicates that a large panel type van can access and unload from a designated set down area before exiting onto Vicar Street. Measures will be put in place to alert suppliers to follow this arrange met. Alternative provision is possible by use of loading bays in the area and there are two on Thomas Street. These arrangements were accepted by the Transportation Planning Section of the Council.
- Construction stage impacts.
 - Reference is made to the highly urbanised location and proximity to resident properties and it is submitted that appropriate construction management provide for protection of residential amenities and that a condition can be attached to a grant of permission should The construction management plan would provide appropriate mechanisms for management of construction including specific matters such as traffic management, construction hours, noise and dust management.

6.4. Further Responses

- 6.4.1. A further submission was received from the Appellant party on 10th April, 2019. It includes additional statements by James Madigan, Paul Graham, Ruth Campbell

and, Michael Mallin House Residents Association and a copy of correspondence to the Appellant Party of 19th February, 2019 issued by Harry Crosbie.

6.4.2. According to the covering submission:

- The previously permitted development was more acceptable than the current proposal from the perspective of urban design.
- The views expressed in the appeal still apply regarding adverse visual impact, over-intensive development, incompatibility with the narrow street network, adverse impact on views towards the historic built environment within the immediate and environs especially towards St. John's Church, adverse impact on amenities of the area and residential amenities at Michael Mallin House and other properties in the area, lack of consideration for appropriate regeneration and redevelopment and community gain, and, potential negative precedent.
- An EIS should have been sought in connection with the proposed development.

6.4.3. In his statement, Mr Madigan, describes and discusses the cultural significance the area in particular the significance of the spire at St John's Church in views within the Dublin skyline and the significance of the Grotto on Meath Street as a spiritual place, the current derelict condition of Molyneux Yard, historically a major thoroughfare towards the southern end, and noise and nuisance from Vicar Street Entertainment Centre as having a negative effect on residential areas in the vicinity. Mr Madigan in his statement also offers to bring representatives of An Bord Pleanala on a walking tour of the area.

6.4.4. In his statement, Mr Graham discusses and elaborates on the claim that there is over-intensification of transient hotel and student accommodation and as to the negative impacts on the area. He also indicates objection on ground of the lack of parking included within the proposed development and as to excessive and increased demand for use of parking facilities in the area.

- 6.4.5. In her statement, Ms Campbell discusses and elaborates on the claim that there is over-intensification of transient hotel and student accommodation and as to the negative impacts on the area, excessive height, lack of integration into the local community or benefit to local facilities, adverse impact on residential amenity due to noise, nuisance, overshadowing, and, as to implications for existing parking facilities and pedestrian safety.
- 6.4.6. In the statement by Michael Mallin Residents Association, there is an account of the history of Michael Mallin House, (which replaced tenements in the early 1960s) and of the role of the Resident's Associations which seeks to redevelop the soccer and small basketball pitch (Playground) adjoining the site as a Community Resource, (Vicar Street Community Project) for the benefit of the community in the wider area. The Resident's Association states that the loss of the space would have significant adverse impact on the spirit of the community and that the hotel, including the bar facilities which the community does not support will also threaten the historic character the area.
- 6.4.7. The attached copy of correspondence issued by Mr Crosbie to the Appellant contains some comments and observations on issues that had been raised with representatives of the developer at a meeting with the Appellant Party. He expresses disappointment that agreement could not be reached at the meeting.

7.0 Assessment

7.1. The assessment is set out under the following subcategories:

Nature and intensity of use.

Design, Mass and Form and Visual impact.

Vehicular and Pedestrian Access and Parking.

Community Facilities and Amenities

Environmental Impact Assessment

Appropriate Assessment Screening

7.2. Nature and intensity of use.

7.2.1. The views expressed in the appeal as to an excessive concentration of hotel and student accommodation development in the Liberties area due to its transient nature and limitations in its potential contribution to enhancement of the local community environment is appreciated. However, the objection, in principle, to the proposed hotel development incorporating the proposed arts studio and bar facilities cannot be sustained within the scope of the development management notwithstanding the argument as to overconcentration of accommodation of a transient nature. The proposed development is consistent with the (“Z5”) zoning objective for the site location in that it provides for acceptance in principle of such development and it allows for delivery of intensive mixed use, albeit primarily hotel development. The hotel and mixed use development is of a similar nature to the development previously permitted, the “Z5” zoning objective then also being applicable. The duration of the extension to the grant of permission expires in May, 2019. (P. A. Reg. Ref. 2742/08 refers.)

7.2.2. Notwithstanding the comprehensive policies and objectives for the area within CDP and the extant Local Area Plan for the Liberties Area. (LLAP) it is considered that there are no grounds on which, in principle, the current proposal could be rejected at development management stage. Rejection of redevelopment on the site in principle in mixed use, having regard to the argument as to over representation

transient type hotel/student accommodation facilities in the local area is a matter appropriate to be considered and addressed through statutory policy review by way of review of or Variation of the CDP and LLAP in accordance with the statutory process involving application of the Reserved function at the City Council.

- 7.2.3. The proposed development contributes to delivery of the policy objectives for regeneration, commercial viability and vitality, particularly encouragement of provision for tourism infrastructure in the city, especially given the shortfall in tourist accommodation. The nature of use by reason of the incorporation of the restaurant facilities for residents, the arts facility and bar and lounge facilities available for public use, compares favourably to single use hotels providing solely for bedroom facilities within little other on-site presence contributing to leisure and recreational passive circulation and activity in the immediate public realm.

7.3. Design, Mass and Form and Visual Impact.

- 7.3.1. The proposed replacement of the existing vacant warehouse structure with a development of contemporary design and form, compatible height which is also consistent with CDP and LLAP objectives and, appropriate in mix of features, materials and finishes along with the associated works to the adjoining lanes would contribute to the enhancement of the immediate public realm and surrounding built environment and contribute to economic viability and vitality. There is no basis on which, for the current proposal, a departure from the acceptance of the previous permitted development in this regard, is warranted. (P. A. Reg. Ref. 2742/08 refers)
- 7.3.2. With regard to the concerns as to obstruction of views towards the spire of St John's Lane Church within the surrounding historic environment and the skyline, a walk through the area was conducted during the inspection and this included the locations covered in the submitted visual impact assessment and the locations referred to in the appeal submissions. The proposed structure, in replacement of the existing two-storey structure is significant in size and, while it may intermittently interfere with views from the locality towards the spire, as is the case with other existing and permitted development, views from within the public realm in the Liberties area overall are not unduly obstructed. Bearing in mind the protected structure designation of St John's Lane Church and the ACA designation, it is considered that

the current proposal is acceptable, as is the case with the previously permitted proposal and that no modifications are required.

7.4. Community Facilities and Amenities

- 7.4.1. The soccer and small basketball pitch, the upgrading of which is included in the MUGA project objectives in the LLAP adjoins the southern site boundary. It is overlooked from its northern boundary by the mural of Michael Mallin, the cultural significance within the local community and Liberties area of which is to be appreciated. The specific objectives (MUGA) in the LLAP provide for enhancement of hard and soft landscaping including provision for playground facilities.
- 7.4.2. In the response to the appeal the willingness of the applicant to reinstate the mural in the vicinity, provide finance for a replacement mural and/or to commission a bronze sculpture of Michael Mallin is indicated. It has been pointed that the mural is likely to be displayed on brickwork from Dolphin's Barn, (to be confirmed by survey) which could be retained if provision is made for relocation to an alternative site. Full details of any such proposal are not available but the commitment of the applicant which benefits the cultural significance and heritage protection in local community and area is appreciable. Consideration could be given to inclusion of a condition providing for comprehensive details should permission be granted. However, it should be noted that a financial contribution toward the cost of improvements to public realm, under the provisions of section 48 2 (c), is sought among the conditions attached to the planning authority decision.

7.5. Vehicular and Pedestrian Access and Parking.

- 7.5.1. The proposed development would not generate significant additional demand for use of the public paid parking on street parking facilities in the area. The applicant has undertaken to implement measures similar to other hotel developments in the city such as an arrangement with a private carpark operator for supply of patrons' parking and management measures that would direct patrons to these facilities in addition to encouragement of alternative modes of travel. These matters can be addressed in a mobility management plan a requirement for which was included in a condition was attached to the planning authority decision and to the prior grant of permission.

- 7.5.2. While the proposed entrance arrangements for collection and drop offs are considered suitable and for services vehicles, elaboration and finalisation on the details provided in the Engineering Services report in respect of servicing management, management of drop offs and collection of patrons, (by taxis) delivery of information on parking facilities available to patrons in the area in public carparks and mobility management and works to the laneways can all be addressed be resolved through compliance with conditions. The swept path analysis demonstrating manoeuvrability of a panel van appears satisfactory.
- 7.5.3. Compliance with an appropriate condition for submission and agreement on a detailed construction management plan including construction traffic management proposals, and other measures providing clarity would ensure satisfactory arrangements that provide for the protection of the residential amenities, particularly at Michael Mallin House and the network around Ash Street. Provision for monitoring and review of the operation of the construction management plan, given the size of the project is recommended
- 7.5.4. It is appreciated that the nature of use as a hotel with bar facilities to be available to non-residents in combination with with the Vicar Street entertainment facility is not solely or strongly local community and local economy focussed but on the other hand it is not accepted that it would give rise to undue negative impact on the amenities of the area.

7.6. **Environmental Impact Assessment.**

- 7.6.1. Having regard to the nature of the proposed development and its location on a brownfield site in a serviced inner-city area, removed from any sensitive locations or features, there is no real likelihood of significant adverse effects on the environment. The need for environmental impact assessment can therefore be excluded at preliminary examination and a screening determination is not required.

7.7. **Appropriate Assessment.**

- 7.7.1. A screening assessment report prepared by Openfield Ecological Services has been included in the application and it has been consulted for the purposes of appropriate assessment screening. The nearest European Sites are the Dublin Bay and River Tolka Estuary SPA and SAC to which the only potential pathway is via surface and foul water drainage emanating from the development. Surface water does not

discharge to the River Tolka and the additional loading to the Ringsend Water Treatment Plan, at which further upgrade works will be complete in 2023, would be insignificant. Having regard to the scale and nature of the proposed development, which is on a brownfield serviced site incorporating existing structures within an inner-city location, no Appropriate Assessment issues arise. The proposed development would not be likely to have a significant effect individually or in combination with other plans or projects on a European site.

8.0 Recommendation

- 8.1. In view of the foregoing it is recommended that the planning authority decision be upheld and that permission be granted based on the draft reasons and considerations and conditions set out below.

9.0 Reasons and Considerations

- 9.1.1. Having regard to Dublin City Development Plan 2016-2022 according to which the site location is subject to the zoning objective: Z5 *“To consolidate and facilitate the development of the central area, and to identify and reinforce and strengthen and protect its civic design character and dignity”* and to policies and objectives set out in, the Liberties Local Area Plan 2008 – 2020 to the planning history and to the established character and pattern of development in the area it is considered that, subject to compliance with the conditions set out below, the proposed development would not adversely affect the integrity and character of the protected structures, the built environment within the Architectural Conservation Area or, the amenities of the area, would be acceptable in terms of design and traffic safety and convenience and would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 CONDITIONS

1. The development shall be and shall be carried out in accordance with the plans and particulars lodged with the application as amended by the further plans and particulars received by An Bord Pleanála on 6th December, 2018 except as may otherwise be required in order to comply with the following conditions Where

such conditions require points of detail to be agreed with the planning authority, these matters shall be the subject of written agreement and shall be implemented in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. Prior to the commencement of the development, a scheme for public art within the public realm shall be submitted to and agreed by the planning authority. The scheme shall be fully implemented prior to the occupation of the development.

Reason: In the interest of visual amenity, cultural heritage and the proper planning and sustainable development of the area.

3. Full details of the proposed upgrade and traffic calming works to Vicar Street and Molyneux Yard providing for shared pedestrian and vehicular circulation and parking facilities, road markings and public lighting shall be submitted to and agreed in writing prior to the commencement of the development and shall be completed to the satisfaction the planning authority prior to occupation of the development.

Reason: In the interest of pedestrian and vehicular safety and convenience and public amenity.

4. Prior to the commencement of development, detailed design and specifications including marking, signage and layout of the proposed site access, and footpath arrangements shall be submitted to, and agreed in writing with the planning authority. These works shall be fully implemented prior to occupation of the building.

Reason: In the interest of pedestrian and vehicular safety and convenience.

5. Prior to the commencement of the development, a fully detailed Mobility Management Strategy shall be submitted to and agreed in writing with the planning authority. The strategy shall provide for incentives to encourage the use

of public transport, cycling, and walking by patrons and staff and shall be operated, monitored and reviewed by the operator of the development.

Reason: In the interest of sustainable transportation and travel and the amenities of the area.

6. Prior to the commencement of the development, fully detailed Servicing Management Plan shall be submitted to and agreed in writing with the planning authority. The implementation of the measures provided for in the plan shall be managed, monitored and reviewed by the operator of the development.

Reason: In the interest of pedestrian and vehicular safety and convenience.

7. The developer shall facilitate the planning authority in the archaeological appraisal of the site and in preserving and recording or otherwise protecting archaeological materials or features which may exist within the site. In this regard, the developer shall: -

- (a) Notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development.
- (b) The developer shall retain a licensed archaeologist to carry out the archaeological requirements of the planning authority.
- (c) The archaeologist shall provide a detailed impact statement based on the final development plans for consideration by the planning authority.
- (d) The planning authority, in consultation with The National Monuments Service, shall determine the exact nature and extent of any archaeological excavation. That portion of the site shall be exposed in plan and reduced in toto. The uppermost overburden may be removed

from the site by a machine with toothless bucket only under archaeological supervision. All in situ features, including post medieval, must be fully recorded prior to removal.

- (e) Once archaeological layers have been exposed, the ground shall be reduced as an archaeological exercise using archaeological hand excavation techniques. In the event of in situ articulated human remains or other significant archaeological deposits being located during the course of this work, the archaeologist retained by the developer shall immediately notify the planning authority and The National Monuments Service. Should such archaeological features be of great significance their preservation in situ shall be required.
- (f) The ground shall be reduced to the base of the archaeological deposits.
- (g) A finds-retrieval strategy shall be developed by the licensed archaeologist and submitted for agreement with The National Monuments Service and the planning authority, and
- (h) a written report containing the results of the archaeological excavation and post-excavation shall be submitted on completion to the planning authority and to The National Monuments Service.

In default of agreement between the parties regarding compliance with any of the requirements of this condition, the matter shall be referred to the Board for determination.

Reason: To conserve the archaeological heritage of the site, it is considered reasonable that the developer should facilitate and assist the planning authority in securing the preservation by record of any archaeological features or materials

which may exist within it. In this regard, it is considered reasonable that the developer should be responsible for carrying out properly supervised archaeological excavations in circumstances where the permitted development works would be likely to result in the unavoidable disturbance or destruction of such features or materials.

8. Prior to the commencement of development, details of the materials, colours and textures of all the external finishes shall be submitted to and agreed in writing with the planning authority. Sample panels shall be displayed on site for inspection by the planning authority.

Reason: In the interest of orderly development and the visual amenities of the area.

9. Water supply and drainage arrangements, including the disposal of surface water incorporating Sustainable Drainage Systems shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health and to ensure a proper standard of development.

10. Prior to commencement of development the developer shall submit, and agree in writing with the planning authority to, a plan for the management of waste within the development, including details of proposals for separation, facilities for storage, and arrangements for collection of the waste and, ongoing operation of these facilities.

Reason: In the interest of clarity, amenity and waste management.

11. All service cables associated with the proposed development (such as electrical, communal television, telephone and public lighting cables) shall be run underground within the site.

Reason: In the interest of orderly development and visual amenities of the area.

12. Notwithstanding the exempted development provisions of the Planning and Development Regulations, 2001 (as amended), no additional development shall take place above roof level, including lift motors, air handling equipment, storage tanks, ducts or other external plant or the erection of telecommunications equipment other than those already shown on the drawings submitted with the application, unless authorised by a prior grant of planning permission. In addition, the precise details of the proposed signage, size, materials, method of illumination if any proposed, shall be submitted to the planning authority for their written agreement prior to commencement of development, any additional signage shall be the subject of a separate planning application.

Reason: In the interest of visual amenity and residential amenities.

13. Site development and building works shall be carried between the hours of 08.00 hrs and 19.00hrs, Mondays to Fridays excluding bank holidays, and 08.00 hrs and 14.00 hrs on Saturdays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: In the interest of residential amenities.

14. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including details of:

- Location of the site and materials compound.
- Location of areas for construction site offices and staff facilities;
- Site security fencing and hoardings;

- Timing and routing of construction traffic to and from the construction site and associated directional signage.
- Measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network;
- Mitigation measures for noise, dust and vibration, and monitoring of such levels;
- Containment of all construction-related fuel and oil and,
- Arrangements for storage and removal of construction and demolition waste and measures for management of surface water run-off.

Arrangements to ensure that during the construction and demolition phases, works are in accordance the standards in, British Standard 5228 *'Noise Control on Construction and Open Sites, Part 1. Code of practice for basic information and procedures for noise control.'*

A monitoring system and record of daily checks that the works are being undertaken in accordance with the Construction Management Plan shall be kept for inspection by the planning authority.

Reason: In the interest of orderly development, public amenity and safety

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

Reason: To ensure the satisfactory completion of the development.

16. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000. The contribution shall be paid prior to the commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to the Board to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000 that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

17. The developer shall pay to the planning authority a financial contribution as a special contribution under section 48(2) (c) of the Planning and Development Act 2000 in respect of public realm works benefitting the proposed development. The amount of the contribution shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to the Board for determination. The contribution shall be paid prior to the commencement of the development or in such phased payments as the planning authority may facilitate and shall be updated at the time of payment in accordance with changes in the Wholesale Price Index – Building and Construction (Capital Goods), published by the Central Statistics Office.

Reason: It is considered reasonable that the developer should contribute towards the specific exceptional costs which are incurred by the planning authority which are not covered in the Development Contribution Scheme and which will benefit the proposed development.

Jane Dennehy
Senior Planning Inspector
23rd April, 2019.