



An
Bord
Pleanála

Inspector's Report ABP 303657-19

Development	Demolition of structures & construction of 4-storey office block.
Location	46 Eastmoreland Lane, Ballsbridge, Dublin 4.
Planning Authority	Dublin City Council
Planning Authority Reg. Ref.	3461/18
Applicant(s)	Simplicity Development Limited
Type of Application	Permission
Planning Authority Decision	Grant
Type of Appeal	Third Party
Appellant(s)	Charlie Chawke
Observer(s)	None
Date of Site Inspection	3 rd May 2019
Inspector	Irené McCormack

1.0 Site Location and Description

- 1.1.1. The appeal site is located along Eastmoreland Lane, Dublin 4 to the rear of Baggott Street Upper in close proximity to Baggott Street Hospital, Eastmoreland Court and the Dylan Hotel. The site is bounded to the east and west by adjacent properties along Eastmoreland Lane with Eastmoreland Place located to the east and Baggott Street Hospital located further west.
- 1.1.2. The appeal site is rectangular in shape, is long and narrow with a stated site area of 0.149 hectares. The site is currently vacant save for a WC and shed 11.6sqm located to the rear of No. 46 Upper Baggott Street (Langkawi Restaurant), a Protected Structure.
- 1.1.3. The area is varied in character with commercial and office development located on the southern side of Eastmoreland Lane and in the vicinity of the site. Searsons licenced premises occupies the site to the immediate west and contains a roofed beer garden which is built right up to shared boundary. The east of the site is used as car parking to serve no. 48 Baggott Street Upper. The northern side of Eastmoreland land is a two-storey dormer building in use as part of the Dylan Hotel with residential building along the remainder of the northern side of the lane.
- 1.1.4. On street car parking (both 'pay and display' and permit parking) is provided along Eastmoreland Place and Baggott Street Upper.

2.0 Proposed Development

- 2.1.1. The development comprises the demolition of the existing WC and shed along the south-western boundary of the site measuring 11.6sq m; the demolition of the existing brick boundary wall and gate along Eastmoreland Lane (north-eastern elevation) and the provision of a four storey office development with a set-back top floor measuring 473 sqm incorporating a terrace at third floor level on the front (north-east) and rear (south-west) elevations; a yard at ground floor level at the rear (south-western elevation) and an area of open space for cycle-parking onto Eastmoreland Lane (north-eastern elevation); and all associated site works above and below ground.
- 2.1.2. In response to a request for additional information from Dublin City Council some amendments were made to the proposal resulting in the omission of the third floor and

creation of a lower roof profile, and a reduction in floor area to 369sqm. Light penetration will be additionally provided to the second floor through the inclusion of glazed rooflights and upstands.

- 2.1.3. An Appropriate Assessment Screening report, an Archaeological Assessment report and a Conservation Assessment accompanied the planning application.

3.0 Planning Authority Decision

3.1. Decision

Following a request for additional information which sought amendments to height, scale and amenity, Dublin City Council issued notification of its decision to grant permission and 15 conditions were attached including the following of particular note:

Condition 2. Developer shall pay the sum of €23,918.48 in accordance with the Section 48 development contribution scheme.

Condition 3. Bond

Condition 4. The development shall be revised as follows:

(a) The projecting bay windows at first and second floor level on the front elevation/façade shall be omitted and a revised solid to void ratio shall be provided on the front façade to the satisfaction of the planning authority. The building line to the first and second floor front façade shall align with the ground floor front building line shown on Drawing no.201806/14 (Rev A) submitted as further information.

(b) The external depth of the building shall be reduced to a maximum depth of 21m on all floor levels. The building shall be setback a minimum distance of 3m from the rear boundary.

(c) The building shall be finished predominately in brick. Prior to the commencement of development, the developer shall submit revised drawings (elevations and floor plans) indicating the revisions required above, including details of the materials, colours and textures of all the external finishes, for the written agreement of the planning authority. Reason: In the interests of visual amenity.

Condition 13. Revised Drainage Requirements

3.2. Planning Authority Reports

3.2.1. Planning Reports

Initial Planning report notes concerns with regard to the scale, height and potential for negative impact on the occupants of the protected structure to the south. Further information was sought to address design, scale and amenity. Following submission of additional information permission was recommended subject to conditions.

3.2.2. Other Technical Reports

Roads Streets and Traffic Department – no objection subject to conditions.

City Archaeologist - No objection subject to monitoring condition.

Engineering Department – Drainage Division - no objection subject to conditions.

3.3. Third-Party Observations

A total of two submissions were made in relation to the development. A brief summary of the issues raised in the submissions to the Planning Authority are set out below:

- Appropriateness of the development in the context of the site.
- Plot Ratio.
- Scale and Massing.
- Overshadowing and Overlooking.
- Common boundary wall between no. 46 and 48 Baggot Street is a common boundary in shared ownership. No consent has been given for its demolition.
- Concern regarding the stability of the wall also raised and underpinning has the potential to cause damage to property and people.
- Impact on third parties.
- Loss of light to Searsons beer garden to the west.
- Site coverage 89% and not 83% as stated.
- Residential development would be more appropriate.

- Waste Management and refuse storage have not been addressed.
- Inadequate drainage details.
- No details of roof top plant.
- Proposal should be reduced to two or three storeys and set back from the lane.

4.0 **Planning History**

Site

None

Surrounding

DCC 3323/15 – Permission granted for the extension of the Dylan Hotel to include the demolition of existing residential dwellings at Nos. 12, 12A, 13, 24, 15 and 16 Eastmoreland Lane, demolition of retail unit No 16a Eastmoreland Lane and redevelopment of sites at Nos. 10 and 11, Eastmoreland Lane.

DCC 1152/07 – Permission granted for commercial office building to the rear of 20 Upper Baggot Street.

5.0 **Policy and Context**

5.1. **Development Plan**

The site is located in an area zoned Z4 – To provide for and improve mixed-service facilities.

Office use is a permissible use on lands that are zoned Objective Z4 up to a limit of 600 sq. metres and are Open for Consideration up to 1,200 sq. metres.

The indicative plot ratio standard for Objective Z4 lands is 2 and the indicative site coverage standard is 80 percent. There is provision in the plan for the relaxation of these standards in areas where, inter alia, the site adjoins a major public transport termini or corridor, to maintain existing streetscape profile or where there is already a higher site coverage / plot ratio on the site.

Archaeology – The site is located within a zone of archaeological influence.

The building to the south at 46 Baggot Street is a protected structure.

Relevant policies and standards of the Dublin City Development Plan 2016-2022 include:

- The subject site lies in car parking Area 2 – The maximum car parking requirement for an office development in this zone is 1 no. space per 200 sqm GFA. The cycle-parking standards for offices in Zone 2 is 1 cycle space per 100 sqm.
- Section 4.5.9 Urban Form and Architecture
- Section 11.1.5.13: Preservation of Zones of Archaeological Interest and Industrial Heritage
- Policy SC25 – To promote high standards of design
- 11.1.5.3 Protected Structures – Policy Application - In order to protect the city's Protected Structures, the City Council will manage and control external and internal works that materially affect the character of the structure.
- CHC1 – Preservation of the built heritage of the city.
- CHC2 - To ensure that the special interest of protected structures is protected. Development will conserve and enhance Protected Structures and their curtilage.
- Chapter 16 sets out Design Principles and Standards
- 16.2 Design Principles and Standards.

“All development will be expected to incorporate exemplary standards of high quality sustainable and inclusive urban design and architecture befitting the city's environment and heritage and its diverse range of locally distinctive neighbourhoods.

In the appropriate context, imaginative contemporary architecture is encouraged provided that it respects Dublin's heritage and local distinctiveness and enriches its city environment. Through its design, use of materials and finishes, development will make a positive contribution to the townscape and urban realm,

and to its environmental performance. In particular, development will respond creatively to and respect and enhance its context.”

5.1.1. **National Policy and Guidelines**

- Development Management Guidelines for Planning Authorities (2007)
- Urban Development and Building Heights Guidelines for Planning Authorities (2018)

5.2. **Natural Heritage Designations**

The site is not located within or directly adjacent to any Natura 2000 sites. There are two designed sites within 2.2 km of the site.

- South Dublin Bay SAC (site code 00210) is located 2.1 km east of the site.
- South Dublin Bay and River Tolka Estuary SPA (site code 004024) is located 2.2km east of the site.

5.3. **EIA Screening**

- 5.3.1. On the issue of Environmental Impact Assessment screening I note that the relevant class for consideration is class 10(iv) “Urban development which would involve an area greater than 2 hectares in the case of a business district, 10 hectares in the case of other parts of a built-up area and 20 hectares elsewhere”. Having regard to the size of the development site (.150ha) and scale of the development it is sub threshold and the proposal does not require mandatory Environmental Impact Assessment. Having regard to the nature and scale of the proposed development, the brownfield nature of the receiving environment, and to the nature, extent, characteristics and likely duration of potential impacts, I conclude that the proposed development is not likely to have significant effects on the environment and that the submission of an Environmental Impact Statement is not required. The need for environmental impact assessment can, therefore, be excluded at preliminary examination. An EIA - Preliminary Examination form has been completed and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

The appellants' property is located to the immediate west of the site – nos. 42-44 Eastmoreland Lane. The following is a summary of the main issues raised in the third party appeal submission:

- The appeal submission sets out that appellant was not informed that the planning authority had sought further information and that this failure to inform the appellant was procedurally incorrect.
- That the proposed development contravenes the Dublin City Development Plan in so far as the reasons put forward for the consideration for approval are not consistent with previous applications for this area and are detrimental to the proper planning and development of the area in general.
- The development represents over development of the site which contravenes provisions of the development plan relating to site coverage, plot ratio and parking standards. The separation distance from 46 Baggot Street Upper is raised and associated fire, noise and smell issues.
- That the development design and bulk will be visually obtrusive and have an overbearing visual impact on adjoining properties by lowering the quality of life for those living and working in the surrounding area.
- The development overlooks the appellants site and will result in loss of light to his business, in particular, the beer garden.
- That the protected nature of the site was inadequately described in the public notices, in particular, there was no mention of the old outer Dublin walls that remains on site.
- The drawings do not reflect the extent of works necessary to accommodate the development and the impact of the proposal to remove the shared boundary wall and the historical value of this wall has not been addressed. The wall is currently supported by a series of steel supports.

- The appeal also states that no attempt was made to contact the appellant in relation to removal of piers supporting the boundary wall shared with the appellant.
- The impact of the construction work in terms of the degree of underpinning and the potential damage to either, property, staff and or customers.
- No parking has been provided.
- The appropriate use of the site is residential.
- Issues of services, loading, bins etc have not been appropriately addressed.
- The submission concludes that the design, scale, mass ignores the existing established character. New development should be environmentally friendly, and the proposal is not a sustainable approach.

6.2. Applicant Response

6.2.1. The first party response to the third-party appeal is summarised as follows:

- In relation to the development the submission requests the Board to consider that proposal for the four-storey development as originally proposed to the planning authority.
- In relation to the further information requested by the planning authority, it is noted that the appellant has clearly been in a position to express their views and thus their third party rights have been protected.
- The appellant's primary concern appears to be the impact of the development on the Beer Garden. The beer garden is not a sensitive receptor and would appear to be almost completely enclosed at present.
- The construction of the proposed development will not impact the adjoining site and it is considered that there will be limited noise impact on the Beer Garden during its peak times after 6pm and on the weekends.
- The proposed office use fully conforms with the zoning objectives of the site and there is a mix of residential and commercial uses along Eastmoreland lane.

- The submission sets out given the small scale of the site the proposed office use was less of an impact in terms of overlooking and a residential use would not be compatible with the adjoining Beer Garden.
- The development does not contravene the Development Plan and fully accords with the National Planning Framework which expressly seeks the densification of brownfield, infill, urban sites.
- In the interest of sustainable development and proper planning it is acceptable not to provide car parking on a city centre site that is close to public transport for a small office development.
- The applicant considers the contemporary design approach acceptable and the imposition of condition no. 4 (a) as per the decision of the planning authority will dilute the composition of the architectural set-piece.
- In relation to boundary walls the archaeological assessment carried out in site concluded that “*no previously unrecorded sites of archaeological potential were noted during the course of the assessment*”.
- It is also set out the piers between the site and the appellant’s property offer no structural stability to the party wall.
- The applicant will be required to secure a fire safety certificate for the development.
- Waste Management will be addressed as per condition no. 2. Waste will be stored in the rear yard.

6.3. **Planning Authority Response**

The Planning Authority did not respond to the grounds of appeal.

6.4. **Observations**

None

6.5. **Further Responses**

None

7.0 Assessment

The main issues that arise for assessment by the Board in relation to this appeal can be considered under the following broad headings:

- Principle of Development
- Design, plot ratio, height and impact on visual amenity and architectural heritage
- Impact on established amenity. Overshadowing and Overlooking
- Other Issues
- Appropriate Assessment Screening

The applicant has requested the Board to review the planning application *de novo*. In summary the development as applied for proposed the provision of a four storey infill office development, with the Planning Authority granting a three storey development. The assessment below has been carried out on the basis of the original application made to the Planning Authority for a four storey office block.

7.1. Principle of Development

- 7.1.1. The appeal site is located on lands that are zoned Objective Z4 '*to provide for and improve mixed services facilities*' under the provisions of the 2016-2022 Dublin City Development Plan.
- 7.1.2. On lands that are zoned Objective Z4, '*Office*' up to a maximum of 600 sq. metres is identified as a Permissible Use and '*Office*' up to a maximum of 1200 sq. metres is stated to be Open for Consideration. The floor area of the development is 473sqm and considered acceptable in principle.
- 7.1.3. The provision of a modern office use will clearly improve the overall vibrancy and vitality of this area and provide for critical mass of employment generating uses. I consider that in terms of the principle of development, there is policy support for this development.

7.2. Design, plot ratio, height and impact on visual amenity and architectural heritage

- 7.2.1. The third party appellants have raised concerns with regard to the proposed **plot ratio** and **site coverage** and contend that both the plot ratio and site coverage

proposed are in excess of the indicative level set out in the development plan and is reflective of a development that is excessively large for the site. The indicative plot ratio figure for lands zoned Objective Z4 is 2.0 and it is noted that the current development on the site has a plot ratio of approximately 3.17. Site coverage is 83% again exceeding the indicative average of 80%. The Development Plan provides for increased plot ratio and higher site coverage in particular circumstances such as

- adjoining major public transport termini and corridors, where an appropriate mix of residential and commercial uses is proposed,
- to facilitate comprehensive redevelopment of areas in need of urban renewal
- to maintain existing streetscape profiles
- where a site already has the benefit of a higher site coverage plot ratio.

Plot ratio is a somewhat crude instrument in terms of measuring density and the avoidance of the adverse effects of overdevelopment and the specific nature and qualitative elements of the proposal need to be considered in terms of the assessment of the appropriateness of the development as proposed relative to its context. In assessing the wider considerations, it is appropriate to rely on the qualitative factors defining built form including height, design, open amenity space provision, and standards of public realm.

7.2.2. The first party justifies the plot ratio and site coverage figures on the basis of the National Planning Framework which expressly seeks the densification of brownfield, infill, urban sites. However, I consider the infill policy as set out in Section 16.2.2 of the Development Plan relevant in this instance which sets out that infill development should respect and compliment the prevailing scale, architectural quality and the degree of uniformity surround the site.

7.2.3. The proposed four storey office block is 15.7m in height. The site lies outside the inner city boundary and is not identified as a key district centre. I note the concerns raised within the third party appeal with regard to the scale and height of the proposed building. Clearly additional building height over and above prevailing height can have a considerable impact in the context of historic buildings. The prevailing **building height** in the immediate vicinity of Eastmoreland lane is three stories and the buildings along the lane appear subordinate to the protected structures to the south fronting Upper Baggot Street and create a stepped transitional height to the

two-storey residential properties to the north. The four storeys as proposed projects above the eaves height of the protected structures along Upper Baggot Street and in my opinion the proposed building at 15.7m would be significantly taller than the immediately adjoining development and would represent a disjointed pattern of development along the lane when viewed in the wider context. Paragraph 16.7.2 of the Development Plan references low rise areas such as the appeal site where there is a pre-existing height, and this provides that a building of the same number of storeys may be permitted ‘...subject to assessment against the standards set out elsewhere in the plan (emphasis added) and the submission of an urban design statement’. The applicant argues that the Urban Development and Building Heights Guidelines for Planning Authorities (2018) encourages increased building heights and whilst I agree in principle, Section 3.2 of the Guidelines sets out that increased building height in architecturally sensitive areas should successfully integrate into/enhance the character and public realm of the area, having regard to its cultural context. I note the planning authority in their request for further information requested the applicant to omit the top floor. I would agree having regard to the site context and the adjoining pattern of development.

- 7.2.4. The third party appellant is also critical of the architectural expression and materials and asserts that the structure is out of character in this locale. I note the innovative contemporary character of the design and as regards the façade treatment the extensive use of glass and natural stone cladding contrast to the red brick and rendered finishes elsewhere on the lane and I consider the design will activate the street and in my view this approach is acceptable.
- 7.2.5. I note the Conservation Report submitted by the first party concludes that the rear elevations of the protected structures are a less significant part of their character than the frontages to the street. The proposed building would have no adverse impact of these rear elevations and the proposed building line is located some 22m from the rear building line of no. 46. The planning authority attached a condition requiring a minimum rear building line set back of 3m which in turn reduced the overall length of the building from 22.3m to 21m. I consider the 3m building line set back a reasonable condition in so far as it provides for increased separation distance between the building and the protected structure no. 46 Upper Baggot Street and I

consider a condition relating to same be re-imposed in this instance, if the Board were minded to grant.

7.2.6. I am satisfied that subject to the increased depth of rear building line and the consequent reduction in the overall length of the building, in combination, with a reduction in the height of the development to a maximum of three storeys, the development is reflective of good contemporary architecture and provides a high-quality design approach. I consider in relation to the visual impact and impact on architectural heritage that the proposal is of a high standard and is innovative and contemporary yet acknowledging of its context. The provision for improved activity and engagement at street level and enhancements to the public realm is in my view successful from an urban design perspective.

7.3. **Impact on established amenity. Overshadowing and Overlooking.**

7.3.1. The potential for negative impact on established amenity is assessed particularly with regard to impact of overshadowing, overlooking and overbearing of the adjacent properties. The proposed development is an infill site and there is no immediately adjoining residential development. All development abutting the site is commercial in nature. Therefore, there is no negative overlooking of private amenity areas as a result of the development.

7.3.2. The grounds of appeal assert that the proposed development would have an **overbearing** impact. It is noted that the primary views of the development will be from the south-eastern and north-western approach along Eastmoreland Lane and from the junction of St. Marys Road and Baggott lane. Views of the proposed development from elsewhere will be largely screened by existing buildings. The building has been set back from the primary building line and will be intermittently visible only. There are a number of other three-storey similar type developments in the vicinity of the site and it is considered that the proposals will not have a significant visually overbearing impact given the urban context.

7.3.3. The third party appellant assert that the development will negatively **overlook**, **overshadow** and has an overbearing impact on the Beer Garden to the immediate west of the site. In this regard I note the beer garden is almost entirely roofed and as such cannot be overlooked. Similarly, the height of the boundary walls and the

extensive roofed area mean that the Beer Garden is already enclosed and overshadowing and overbearing impact are not an issue.

- 7.3.4. Having regard to the location and zoning designation of the site, it is reasonable to conclude that the proposed development will not have significant adverse impact on established amenity as a result of overlooking, overshadowing or overbearing impact.

7.4. **Other issues**

- 7.4.1. The third party submission sets out that appellant was not informed by the planning authority that **further information** had been sought and that this failure to inform the appellant was procedurally incorrect.
- 7.4.2. I would draw the Boards attention to Article 31 of the Planning Regulations whereby notification of a decision by a planning authority in respect of a planning application shall be given to the applicant and to any other person or body who made a submission or observation in accordance with articles 28 or 29 within 3 working days of the day of the decision. There is no requirement under the Planning Regulations to inform any other person or body who made a submission or observation that further information has been requested. Article 35 of the Planning Regulations provides for the situation where further information contain significant additional data. The question of 'significant additional data' can only be determined by the planning authority on an individual basis in each case. The planning authority did not consider the response to the further information and the accompanying amendments to the proposal to be significant or materially different to warrant re-advertisement and circulation to third parties in accordance with Article 35 of the Planning Regulation. I would agree, and I am satisfied that the appellant was in no way prejudiced by the planning authority not informing them that further information was requested.
- 7.4.3. The proposed development is located within the zone of notification associated with Recorded Monument DU018-055 Baggotrath Castle. An **Archaeological Assessment** was submitted with the planning application. An onsite field inspection was carried out in addition to a desk top study. The report sets out that it is possible that the development may have an adverse impact on previously unrecorded archaeological features or deposits. It is recommended that all ground disturbances be monitored by a suitably qualified archaeologist. I note the report from the City

Archaeologists dated 31st July 2018 agrees and recommend a relevant condition be attached to the grant of planning permission.

- 7.4.4. The Development Plan establishes that **car parking** provision maybe reduced or eliminated in areas that are well served by public transport. This site is accessible to public transport and there are numerous shops and services within walking distance. Accordingly. I consider the proposal not to provide car parking on site acceptable. I note the Roads & Traffic Planning Division in their report of 22nd August 2018 have no objection to the non-provision of carking on site. Cycle parking has also been proposed on site.
- 7.4.5. The third party appellants have raised concerns regarding the lack of a detailed **construction management** plan. Given the scale of the new build proposed, and the proximity to protected structures and shared boundary walls. Concerns regarding construction management are in my opinion an issue which can be addressed satisfactorily by way of a requirement for a detailed construction and demolition management plan in the event that permission is granted.
- 7.4.6. Furthermore, the appellant does not consent to facilitating any construction related works on his property. In this regard I note that the planning system is not designed as a mechanism for resolving disputes about title to land or premises or rights over land; these are ultimately matters for resolution in the Courts. In this regard, it should be noted that, as section 34(13) of the Planning Act states, a person is not be entitled solely by reason of a permission to carry out any development. Should planning permission be granted and should the appellants or any other party consider that the planning permission granted by the Board cannot be implemented because of landownership or title issue, and then Section 34 (13) of the Planning and Development Act 2000 is relevant.

7.5. **Appropriate Assessment Screening**

- 7.5.1. The site is not located within or directly adjacent to any Natura 2000 sites.
- 7.5.2. A screening report for Appropriate Assessment was submitted with the planning application.

7.5.3. Stage 1 AA Screening Report

The applicants Stage 1 AA Screening report described the site, the location and the proposed development, it summarised the regulatory context, it carried out a desk top surveys and identified the European sites considered to fall within the zone of influence of the works. It confirmed that the proposed development would not be located within any European sites. 3 European sites that could be affected were assessed; the South Dublin Bay SAC (site code 00210) located 2.1km east of the site, the South Dublin Bay and River Tolka Estuary SPA (site code 004024) located 2.2km east of the site and the Poulaphouca Reservoir SPA (site code 4063) located 24km from the site. It described these sites and their respective qualifying habitats and species, it listed their conservation objectives and targets and attributes.

7.5.4. Appropriate Assessment Screening Assessment

Conservation Objectives: to maintain or restore the favourable conservation condition of the Annex 1 habitat(s) and / or the Annex II species for which the SAC and SPA'S have been selected.

<i>European Site</i>	<i>Site Code</i>	<i>Relevant QI's and CI's</i>	<i>Distance</i>
South Dublin Bay SAC	000210	Mudflats and sandflats not covered by seawater at low tide	2.1km
South Dublin Bay and River Tolka Estuary SPA	004024	Light-bellied Brent Goose Oystercatcher Ringed Plover Grey Plover Knot Sanderling Dunlin	2.2km

		Bar-tailed Godwit Redshank Black-headed Gull Roseate Tern Common Tern Arctic Tern Wetland and Water birds	
Poulaphouca Reservoir SPA	004063	The site is a Special Protection Area under the E.U. Birds Directive, of special conservation interest for the Greylag Goose and Lesser Black-backed Gull. Part of Poulaphouca Reservoir SPA is a Wildfowl Sanctuary.	c.24km

- 7.5.5. The Stage 1 AA screening report concluded that having regard to the brownfield nature and scale of the development and nature of the receiving environment, the proximity to the nearest European Site and the absence of a pathway, no Appropriate Assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans and projects on a European Site.
- 7.6. It is reasonable to conclude that on the basis of the information on the file, which I considered adequate in order to issue a screening determination, that the proposed development individually or in combination with other plans or projects would not be likely to have a significant effect on any European site, in view of the sites' conservation objectives, and a Stage 2 Appropriate Assessment (and submission of an NIS) is not therefore required.

8.0 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 granted for the development for the reasons and considerations set out below.

9.0 Reasons and Considerations

Having regard to the city centre location of the development, the pattern of development in the area, to the provisions of the Dublin City Development Plan 2016-2022 and to the nature, scale, layout and design of the proposed development, it is considered that the proposed development would provide for a strong and architecturally appropriate building on this site. Subject to compliance with the conditions set out below, the proposed development would not seriously injure the visual or residential amenities of the area or of adjoining property, would be acceptable in terms of impact on the architectural heritage of the area and would be acceptable in terms of traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and lodged with the application, as amended by the further plans and submitted on the 16th December 2018, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. The proposed development shall be amended as follows:

(a) The rear building line shall be set back 3m from the rear site boundary. The overall length of the building shall be revised accordingly.

Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In protect the amenities of property in the vicinity.

3. Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health.

4. The developer shall facilitate the preservation, recording and protection of archaeological materials or features that 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) employ a suitably-qualified archaeologist who shall monitor all site investigations and other excavation works, and

(c) provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove.

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

Reason: In order to conserve the archaeological heritage of the site and to secure the preservation and protection of any remains that may exist within the site.

5. Details, including samples, of the materials, colours and textures of all the external finishes to the building shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

6. Notwithstanding the exempted development provisions of the Planning and Development Regulations, 2001, as amended, no additional plant, machinery or telecommunications structures shall be erected on the roofs of any of the building;

height shall any external fans, louvres or ducts be installed without a prior grant of planning permission.

Reason: In the interest of visual amenity.

7. No signage, advertising structures / advertisements, security shutters or other projecting elements, including flagpoles, shall be erected within the site unless authorised by a further grant of planning permission.

Reason: To protect the visual amenities of the area.

8. Site development and building works shall be carried out only between the hours of 0700 to 1800 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

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

9. Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the “Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects”, published by the Department of the Environment, Heritage and Local Government in July 2006. The plan shall include details of waste to be generated during site clearance and construction phases, and details of the methods and locations to be employed for the prevention, minimisation, recovery and disposal of this material in accordance with the provision of the Waste Management Plan for the Region in which the site is situated.

Reason: In the interest of sustainable waste management.

10. A plan containing details for the management of waste (and, in particular, recyclable materials) within the development, including the provision of facilities for the storage, separation and collection of the waste and recyclable materials and for the ongoing operation of these facilities shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the waste shall be managed in accordance with the agreed plan.

Reason: To provide for the appropriate management of waste and, in particular recyclable materials, in the interest of protecting the environment.

11. 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.

12. 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, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. 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 An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme.

Irené McCormack
Planning Inspector

17th May 2019