



An  
Bord  
Pleanála

## Inspector's Report ABP-304822-19

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<b>Development</b>	Two additional floors at 7 <sup>th</sup> and 8 <sup>th</sup> -floor level and extensions from ground to 6 <sup>th</sup> -floor level to central block C, providing for 26 hotel guestrooms
<b>Location</b>	The North Star Hotel, 27 Amiens Street, Dublin 1
<b>Planning Authority</b>	Dublin City Council
<b>Planning Authority Reg. Ref.</b>	2757/19
<b>Applicant(s)</b>	BC McGettigan Ltd.
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Refuse
<b>Type of Appeal</b>	First-Party
<b>Appellant(s)</b>	BC McGettigan Ltd.
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	4 <sup>th</sup> September 2019
<b>Inspector</b>	Colm McLoughlin

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## **1.0 Site Location and Description**

- 1.1.** The appeal site has a stated area of approximately 2,851sq.m and is located on the north side of Dublin city centre, fronting onto Amiens Street and Connolly Station and backing onto Foley Street. It is bisected by two operational elevated railway lines. Adjacent to the south of the site is a terrace of three-storey commercial properties fronting onto Talbot Street, and adjacent to the north along Amiens Street is a railway bridge and road underpass, and a terrace of three to six-storey buildings. Adjacent to the northeast along Foley Street is Montgomery Court, a six-storey residential block with commercial units at ground floor. A service laneway to the southwest separates the appeal site from Ulysses House, a five-storey commercial building. The Steelworks mixed-use development, including four to eight-storey blocks, is located directly north of the appeal site on the opposite side of Foley Street.
- 1.2.** Currently on site is a hotel, which is split into three blocks. Block A to the south of the railway line comprises a three-storey building over basement, which is a protected structure (RPS Ref. 98) dating from the mid to late 1800s and according to the National Inventory of Architectural Heritage (NIAH) it originally consisted of a terrace of separate buildings, which have been amalgamated (NIAH Ref. 50010124). The subject central block C, which does not have street frontage and block B onto Foley Street, are seven storeys in height. Permission was recently granted by the Board for an additional two storeys to block B to provide 36 additional guestrooms. The hotel currently comprises 235 guestrooms and suites, meeting rooms, gymnasium, restaurants and open seating areas, a stated gross floor area (GFA) of approximately 11,507 sq.m and a maximum stated building height of approximately 22.8m to the central lift core in Block C. The external finishes to block C feature brick and decorative screens from ground to fourth-floor level and curtain wall glazing to the fifth and sixth floors. Ground levels in the area are quite level.

## **2.0 Proposed Development**

- 2.1.** The proposed development comprises the following:
- two additional floors to central block C along the railway viaduct to provide for a nine-storey block (stated height of 27.5m) and extensions from ground to

sixth floor to provide a lift core and revised elevations at sixth-floor level, in total providing for an additional stated GFA of c.1,140sq.m, accommodating 26 no. hotel guestrooms, each with en-suite washroom facilities.

- 2.2. In addition to the standard details, the planning application was accompanied by a Planning Report, a Conservation Report and a set of Photomontages.

### **3.0 Planning Authority Decision**

#### **3.1. Decision**

- 3.1.1. The Planning Authority decided to refuse permission for the following reason only:

**R.1** The proposed two-storey extension over an extant seven-storey building in such close proximity to the protected structure at the North Star Hotel would be monolithic and overly dominant in the historic streetscape along Amiens Street, and would further dwarf the protected structure and adjacent historic streetscape, seriously injuring its architectural character and setting. The proposed works would therefore be contrary to the Dublin City Development Plan (2016-2022) Section 11.1.5.1, Policy CHC2 (a), (b), and (d) and to the proper planning and sustainable development of the area.

#### **3.2. Planning Authority Reports**

- 3.2.1. Planning Report

The report of the Planning Officer (June 2019) reflects the decision of the Planning Authority and noted the following:

- extension of the existing hotel is permissible under the 'Z5-zoning' objective;
- plot ratio (4.43) would be above the Development Plan indicative plot ratio (2.5 – 3.0) standards, however it is noted that in some circumstances this may be exceeded;
- the stated building height (27.5m) meets the upper building height limits for this area (28m). Recent permission for two additional floors to block B is acknowledged. However, the proposed development would result in a nine-storey structure, which would be significantly higher than the predominant

three-storey buildings along Amiens Street, including block A, the protected structure;

- there is concern that the proposed additional floors would be visually incongruous and unduly dominating on the streetscape, based on the photomontages submitted;
- there would be potential for impacts on the residential blocks to the north;
- the additional height would not be consistent with the additional assessment criteria required within the Development Plan, the provisions set out within national guidelines and would ultimately adversely impact on the visual amenities of the area.

### 3.2.2. Other Technical Reports

- Engineering Department (Drainage Division) - no objection subject to conditions;
- Roads & Traffic Planning Division – no response;
- Conservation Officer – recommends refusal;
- City Archaeologist – recommends conditions are attached.

### 3.3. Prescribed Bodies

- Minister for Culture, Heritage and the Gaeltacht – no response;
- An Taisce – no response;
- The Heritage Council – no response;
- Irish Rail – no response;
- Transport Infrastructure Ireland (TII) – recommends a Section 49 contribution should be attached;
- National Transport Authority (NTA) – no response;
- Fáilte Ireland – reference in the Planning Officer's report to response expressing support for the proposed development;
- The Arts Council – no response;

- Irish Water – no response.

### **3.4. Third-Party Submission**

3.4.1. One submission was received during consideration of the application by the Planning Authority, on behalf of Ulysses House Management Ltd., the owners of the commercial block adjacent to the southwest of blocks B and C on the appeal site.

The issues raised can be summarised as follows:

- poor construction management during previous phases of development on site led to disruption for the adjacent tenants and also raised health and safety concerns;
- development would impact on the operation of Ulysses House and the applicant failed to engage with the adjoining property owner;
- in conjunction with the already permitted additional two storeys to block B, overdevelopment of the site would arise, as exemplified in the development failing to meet the necessary Development Plan standards for plot ratio in this area;
- no additional parking is proposed as part of the proposed development, despite the area experiencing significant parking capacity problems;
- the application is absent of any meaningful construction and construction traffic management proposals, including mitigation measures, and further information should be requested with respect to same.

## **4.0 Planning History**

### **4.1. Appeal Site**

4.1.1. There is an extensive history associated with the appeal site, including the following recent applications:

- ABP Ref. 301591-18 / Dublin City Council [DCC] Ref. 2323/18 – permission granted (November 2018) for two additional floors at 7<sup>th</sup> and 8<sup>th</sup>-floor level to block B (Foley Street), providing for 36 additional hotel guestrooms (271 in total);

- DCC Ref. 3807/16 – permission granted (July 2017) for a glazed restaurant extension and an external seating area in block A along Amiens Street;
- DCC Ref. 3568/15 – permission granted (December 2015) for two additional storeys, providing for a seven-storey block C to the hotel;
- DCC Ref. 2533/15 – permission granted (August 2015) for alterations to block C and block B to the hotel, including the omission of basement car park and change of use from ground-floor retail along Foley Street to hotel guestrooms;
- DCC Ref. 3931/09 – permission granted (July 2010) for five-storey central block C to the hotel.

## **4.2. Surrounding Sites**

4.2.1. There is an extensive recent planning history associated with the adjoining and neighbouring sites, including the following:

- 17-21 Foley Street (ABP Ref. 302952-19 / DCC Ref. 3752/18) – permission granted by An Bord Pleanála in March 2019 for the demolition of an existing three-storey building, approximately 40m to the west of the appeal site, and construction of a seven-storey office block over basement.

## **5.0 Policy & Context**

### **5.1. Development Plan**

5.1.1. The appeal site has a zoning objective ‘Z5 – City Centre’ within the Dublin City Development Plan 2016-2022, where it is the stated objective ‘to consolidate and facilitate the development of the central area, and to identify, reinforce, strengthen and protect its civic design, character and dignity’. A hotel is a ‘permitted’ use on lands zoned ‘Z5’. The Plan outlines that the primary purpose of zone ‘Z5’ is to sustain life within the centre of the city through intensive mixed-use development. Part of the strategy for this area is to provide a dynamic mix of uses that interact with each other and to help create a sense of community, which sustain the vitality of the inner city both by day and by night.

5.1.2. Block A of the North Star Hotel located on the southeast side of the site along Amiens Street is included within the Record of Protected Structures (RPS Ref. 98),

as are three neighbouring terraced structures on the northeast side of the site along Amiens Street. Chapter 11 of the Plan provides guidance on development comprising or in the curtilage of protected structures, including Policies CHC1 and CHC2, which 'seek the preservation of the built heritage of the city' and the safeguarding the special interest of Protected Structures. The site is also within a Zone of Archaeological Interest.

5.1.3. Section 4.5.9 of the Plan includes policies relating to Urban Form and Architecture, including the following:

- SC7 - to protect and enhance important views, corridors and landmarks;
- SC25 - to promote development which incorporates exemplary standards of high-quality, sustainable and inclusive urban design, urban form and architecture;
- SC28 - to promote understanding of the city's historical architectural character to facilitate new development, which is in harmony with the city's historical spaces and structures.

5.1.4. Section 6.5.3 of the Plan refers to 'tourism and visitors', and notes that it is important to continue to develop tourism infrastructure such as visitor accommodation of various types. Relevant policies include:

- CEE12 (i) - to promote and facilitate tourism, as one of the key economic pillars of the city's economy and a major generator of employment, and to support the provision of necessary significant increase in facilities such as hotels;
- CEE13 (iii) - to promote and support the development of additional tourism accommodation at appropriate locations.

5.1.5. Other relevant sections of the Development Plan include:

- Section 16.2 – Design Principles and Standards;
- Section 16.5 – Plot Ratio (2.5 to 3.0 within a Z5 zoning objective area);
- Section 16.6 – Site Coverage (90% within a Z5 zoning objective area);



- 5.1.6. Section 16.7.2 of the Development Plan sets out building height limits for development, including a 28m restriction for commercial development in the inner city and provision for over 50m-high buildings within 500m of Connolly Station.
- 5.1.7. The Development Plan refers to the document 'Site Layout Planning for Daylight and Sunlight, A Guide to Good Practice' (Building Research Establishment [BRE] Report 2<sup>nd</sup> Edition, 2011) for use in assessing the impact of development on access to sunlight and daylight.
- 5.1.8. Section 16.38 and Table 16.1 of the Plan outline that a maximum of one car park space per four hotel rooms is required in the city centre.

## **5.2. National Guidelines**

- 5.2.1. The following national guidelines are also relevant:
- Project Ireland 2040 - National Planning Framework (2018);
  - Urban and Building Heights - Guidelines for Planning Authorities (2018);
  - Architectural Heritage Protection Guidelines for Planning Authorities (2011);
  - Urban Design Manual: A Best Practice Guide (2009).

## **5.3. Environmental Impact Assessment - Preliminary Examination**

- 5.3.1. Having regard to the existing development on site, the limited nature and scale of the proposed development and the absence of any connectivity to any sensitive location, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

## **6.0 The Appeal**

### **6.1. Grounds of Appeal**

- 6.1.1. The principal grounds of the first-party appeal can be summarised as follows:

### Zoning Objectives and Development Standards

- the proposed development would comply with the zoning objectives for the site;
- the existing development on site, the design, the location and the need for the development justify the resultant plot ratio and the proposed parking provision;

### Building Height

- views of the additional floors would be largely limited to Amiens Street with the most sensitive views along Sheriff Street, which has limited footfall;
- the proposed development is below the standard 28m building height limit for this area, as set out in the Development Plan and the proposed is further justified by the favourable provisions for increased building heights set out in the Urban Development and Building Height Guidelines and the National Planning Framework;
- the permitted additional floors to block B would provide a backdrop to absorb the development and the additional floors to block C would add to the collection of taller buildings in the immediate area;
- the building height is further justified by the strategic location proximate to Connolly Station, including a host of public transport options;
- precedent for the building height is set by other buildings up to 35m in height in the vicinity, including block C of The Steelworks (25m / 8 storeys) on Foley Street, Scot's Church (28.8m / 7 storeys) on Abbey Street, the Metropolitan Building (28m / 8 storeys) on James Joyce Street, No.2 Harbourmaster Place (35m / 8 storeys) off Amiens Street in the IFSC and the International Centre (28m / 7 storeys) in the IFSC;

### Impact on Architectural Heritage

- the Conservation Report submitted as an appendix to the grounds of appeal highlights that the development would not impact on the setting and character of the protected structure on site, given the degree of separation and screening offered by the elevated railway viaduct;

- the Conservation Officer's reliance on policy CHC2 of the Development Plan is flawed, as no works are proposed to the protected structure and the proposed additional floors and extensions would have greater association with the Foley Street side of the property, given the physical severance created by the railway viaduct;
- the proposed development would respect and enhance the appearance of block A and the streetscape;
- the 10m separation distance between the subject block C and the protected structure, block A, would be sufficient to ensure that the proposed additional floors to block C would not be overbearing on block A;
- precedent for development of this scale relative to adjacent protected structures is provided by the Tara House redevelopment (ABP Ref. 302980-18) 88m / 22 storeys) on Tara Street and No.2 Cardiff Lane redevelopment (DCC Ref. DSDZ3648/18) (25m / 8 storeys) off Sir John Rogerson's Quay. Additional drawings are submitted with the appeal to illustrate the scale of the proposals relative to these redevelopments;
- photomontages submitted illustrate that the proposed development would have minimal impact on the visual amenities of the area, including the protected structure;

## **6.2. Planning Authority Response**

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

## **6.3. Observation**

6.3.1. None received.

## **7.0 Assessment**

### **7.1. Introduction**

7.1.1. The principle of additional hotel guestrooms on this site was considered acceptable in the previously permitted appeal (ABP Ref. 301591-18) for two additional floors to block B along Foley Street. These additional floors are now under construction and

the statutory zoning context for the site has not altered in the intervening period. The proposed development would increase the provision of hotel bedrooms in this inner city location, thereby supporting policies CEE12(i) and CEE13(iii) of the Dublin City Development Plan 2016-2022, which support the development of additional tourism accommodation at appropriate locations in the city. In conjunction with the additional floors to block B, this would bring the hotel accommodation to 297 hotel guestrooms and a total gross floor area of c.13,935sq.m. I am satisfied that the proposed development, in an inner-urban area and adjacent to various modes of public transport would meet relevant standards in the Development Plan, including those allowing for increased plot ratios. The additional floors currently under construction to block B would avoid the development impacting on the amenities of residential properties to the north on Foley Street.

7.1.2. Consequently, I consider the substantive planning issues arising from the grounds of appeal and in assessing the proposed development are as follows:

- Building Height;
- Visual Impact & Architectural Heritage.

## **7.2. Building Height**

7.2.1. The Planning Authority noted that the stated building height for the proposed development would be 27.5m and that this would be within the Development Plan limitations, which allow for 28m-high commercial buildings in the inner-city area. The Planning Authority's reason for refusal did not specifically refer to the proposed height of the development. The grounds of appeal assert that the proposed building height is justified based on the function and quality of the proposed development, planning precedent, including the previous permission for two additional floors to block B and other existing and permitted buildings within the city centre, and planning policy, including the provisions set out within the Urban Development and Building Height Guidelines and the National Planning Framework.

7.2.2. Building heights along Amiens Street and Foley Street largely range from three to six storeys. Within The Steelworks mixed-use development to the northwest, building heights vary from four storeys directly onto Foley Street stepping upwards to eight storeys moving into the complex. Permission was recently granted by the Board for

a seven-storey office building 40m to the west of the appeal site on Foley Street (ABP Ref. 302952-19).

- 7.2.3. When measured from the drawings submitted at further information stage, the proposed building height from ground-floor level to the top of parapet level and service core level would be 28.6m, which is marginally in excess of the standard inner-city height limits. However, the Development Plan states there is scope for buildings over 50m in height in this location within 500m of Connolly Station. The Urban Development and Building Height Guidelines support the presumption in favour of increased building heights in urban locations such as this, where the scale is appropriate, while taking account of the parameters in the National Planning Framework. As the proposed building height would exceed 28m and would be less than 50m, it would be considered a mid-rise building. Section 16.7.2 sets out that proposals for mid-rise buildings should be assessed against specific criteria, including the visual impact of the proposed development relative to the site context and the historic environment. These matters are considered in section 7.3 below. Accordingly, I am satisfied that the proposed building height would be appropriate based on national guidelines and Development Plan provisions, subject to consideration of the impact of the proposed development on the visual amenities of the area, including features of architectural heritage.

### **7.3. Visual Impact & Architectural Heritage**

- 7.3.1. The Planning Authority's reason for refusal of planning permission appears to stem from the report of the Conservation Officer and solely relates to the visual impact of the proposed additional floors when viewed in the context of the historic streetscape along Amiens Street, including the protected structure on site. In response, the grounds of appeal highlight that a Conservation Report submitted with the appeal concludes that the separation distance between the subject block and the protected structure and the positioning of the railway viaduct between these buildings, would ensure that the proposed additional floors would not be out of scale and character with the protected structure and consequently would not have a detrimental impact on the protected structure and the historic streetscape.
- 7.3.2. Policies CHC1 and CHC2 of the Development Plan, seek to preserve the built heritage of the city and safeguard the special interest of protected structures. When

considering the suitability of building height, the Urban Development and Building Height Guidelines refer to the need to consider the impact on the historic built environment, while the Architectural Heritage Guidelines require development proposals to take account of the impact on protected structures, whether or not these are located inside or outside the development site. In addition to block A on site, there are three terraced protected structures immediately to the northeast of the site along Amiens Street. The site and surrounding area is not within a designated conservation area.

7.3.3. A visual impact assessment of the proposed development did not accompany the application, but photomontages from three locations along Amiens Street were submitted. I am satisfied that the images provide a reasonably accurate portrayal of the proposed development and the permitted development under construction. The existing buildings and the narrowness of Foley Street would screen views of the proposed additional floors from the north and west. Photomontage view 3 reveals that the proposed development would be screened from view by the existing buildings on the north-eastern approach to the site along Amiens Street. Therefore, the most open and sensitive views of the proposed additional floors would be along Amiens Street, directly fronting block A on the site and from the southwestern approach. The proposed additional floors would be set back approximately 13m to 34m from Amiens Street and 11m to 23m from the protected structure on site. The finishes to the extensions to block C would match those on the lower floors of the block.

7.3.4. The prevailing character of the area to the south along Amiens Street, is of lower scale buildings to that proposed. I am satisfied that the set back from the street, would ensure that the additional floors would not represent an abrupt transition in building height and would not be overly dominant when viewed from the south along Amiens Street. Furthermore, the permitted additional floors to block C to the rear would in part form the backdrop to the proposed additional floors. Where visible to the rear of the protected structure, the physical buffer provided by the elevated railway viaduct and the separation distances between the blocks would ensure that the proposed additional floors to block C would not dominate the backdrop or the setting to block A. Furthermore, the proposed finishes and uncomplicated form of the extensions to block C would ensure that the extended building would be visually

distinct from the protected structure. The treatment of the elevations to the additional floors, including materials, would follow the design approach permitted for the additional floors to block B.

- 7.3.5. In conclusion, the special interest of the protected structure on site would not be impacted. I am satisfied that the proposed development would not have an adverse impact on the setting and character of the protected structures on site and the historic streetscape along Amiens Street and would not have a detrimental impact on the visual amenities of the area. Permission for the proposed development should not be withheld for this reason.

## **8.0 Appropriate Assessment**

- 8.1. Having regard to the existing development on site, the nature of the proposed development, the location of the site in a serviced urban area and the separation distance to the nearest European site, no Appropriate Assessment issues arise, and it is not considered that the development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

## **9.0 Recommendation**

- 9.1. I recommend that permission be granted, subject to conditions, for the reasons and considerations set out below.

## **10.0 Reasons and Considerations**

1. Having regard to the zoning objectives for the site, the provisions of the Dublin City Development Plan 2016-2022, to the pattern of development in the area and to the location of the site in close proximity to a public transport hub, it is considered that, subject to compliance with the conditions set out below, the proposed development would constitute an appropriate development at this location, would be acceptable in terms of scale, form, height and design, would not adversely impact on the character or setting of the protected structure on site or the immediate historic streetscape, would be acceptable in terms of visual amenity and would increase the provision of hotel bedrooms in

this inner-city location. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 11.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, 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. Details of materials, colours and textures of all the external finishes to the proposed development, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

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

3. No additional development shall take place above roof parapet level, including lift motor enclosures, air handling equipment, storage tanks, ducts or other external plant, telecommunication aerials, antennas or equipment, unless authorised by a further grant of planning permission.

**Reason:** To protect the amenities of property in the vicinity and the visual amenities of the area.

4. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with the planning authority prior to commencement of



development. This Plan shall provide details of intended construction practice for the development, including hours of working, noise management measures and off-site disposal of construction/demolition waste.

**Reason:** In the interests of public safety and local amenities.

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

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

6. 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 made under section 48 of the Act be applied to the permission.

7. The developer shall pay to the planning authority a financial contribution in respect of Luas Red Line Docklands Extension (Luas C1) in accordance with the terms of the Supplementary Development Contribution Scheme made by the planning authority under section 49 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. 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 Supplementary Development Contribution Scheme made under section 49 of the Act be applied to the permission.

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Colm McLoughlin  
Planning Inspector

8<sup>th</sup> October 2019