



An
Bord
Pleanála

Inspector's Report ABP 304878-19

Development

Ten-storey over basement multiple tenancy office development with access from Grand Canal Quay. (GFA 19,856 square metres.) Removal of existing fill to create new ground level, modification to boundary wall on Grand Canal Quay with new openings, landscaped access route, 199 cycle spaces, 15 carparking spaces accessed by car lift, ground floor mezzanine, hard and soft landscaping, retention of Macken Street entrance to facilitate access to Iarnród Éireann signalling building. Plant, equipment, storage and ancillary facilities.

Location

"Boston Sidings", site, Grand Canal Quay and Macken Street, Dublin 2.

Planning Authority

Dublin City Council

P. A. Reg. Ref.

2808/19

Applicant

Bartra Developments Co. Ltd..

Decision

Grant Permission

Type of Appeal

Third Party

Appellant

Paula Kinsella.

Date of Site Inspection

9th September, 2019

Inspector

Jane Dennehy

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1.0 Site Location and Description

- 1.1. The site of the proposed development has a stated area of 3,702 square metres and is located between the Docklands and the Grand Canal and is that of a railway siding which is in use for storage of trains when they are out of service. It has also been the site of a former lime works, the Boston Lime Company, following which it was known as the Boston sidings lands, and the City of Dublin, (Boland's) Bakery.
- 1.2. The level was raised to circa three metres above that of the road to provide for a railway siding originally constructed in the nineteenth century. The Dublin - Wexford railway embankment is located on the north side. The retaining wall on the east side (dating from the nineteenth century) for the entire sidings is constructed in snecked limestone and granite. It extends along the entire frontage of Grand Canal Quay on the eastern boundary and according to the submissions available with the application, it is circa forty-five metres in length. There are railway bridges over both Macken Street and Grand Canal Quay to the east and west of the site lands the bridge at Grand Canal Quay abutting the retaining wall.
- 1.3. At the southern end the site adjoins the boundaries of Clanwilliam Square which is a cluster of two storey buildings generally arranged around courtyards comprising own door two storey office developments.
- 1.4. Access to the site is off Macken Street on the western boundary via a ramp and this entrance also services a CIE signals building located to the north east. Macken Villas a five storey flats complex is to the south west on the east side of Macken Street. On the west side of Macken Street there are two storey houses and Conway Court, a flats complex.

2.0 Proposed Development

- 2.1. The application lodged with the planning authority comprises proposals for indicate proposals for:
 - A ten storey over basement multiple tenancy office development with access from Grand Canal Quay which has a stated gross floor area of 19,856 square metres. For the block, there are setbacks at fifth, and seventh levels and there are external terraces at fifth, sixth and seventh levels. two façade

treatments are proposed, the facades themselves being angled. The scale is broken down by three elements along the length and by delineation of the floor plates and a mix of brick and glazed external finishes are used towards the centre and upper levels and there are panels in the solid façade.

Landscaped external spaces are incorporated in the tiering of the six to ten floor elements. The six-storey element of the building is towards the west addressing Macken Villas the five story flats complex. It steps up to eight storeys towards Grand Canal Quay the south and the ten-storey element is concentrated toward the centre and north of the site.

- Removal of existing fill to create new ground level towards Grand Canal Quay off which there is provision for vehicular, cycle and pedestrian access.
- The main entrance is off Grand Canal Quay to the south east where part of the original historic boundary wall is to be removed. The ground level is to be brought back to the original level, the level having been raised by circa three metres (above the road level) in the nineteenth century to facilitate the railway embankment. Thus, the retaining function of the wall becomes redundant. Modifications are to be made to the nineteenth century boundary wall by way of removal of a length of circa 15.8 metres of the original to provide for the entrance on Grand Canal Quay and some additional openings; one gated entrance for fire egress and pedestrian and cycle access and another for visual connection between street edge of office foyer “punch hole” opening. It is to be incorporated into the section facing onto Grand Canal Quay.
- Vehicular access is to be off Grand Canal Quay via a priority-controlled junction at the south east corner of the site with a two-way flow in and out of via a carriageway width of 5.5 metres and a car lift to twenty-five basement level parking spaces.
- 199 cycle spaces, basement level plant and equipment are included, and cycle storage and staff facilities are to be provided adjacent to the main entrance
- A landscaped access route, between Clanwilliam Court and the block providing for rear access to cycle parking storage and ancillary facilities,

ground floor mezzanine for plant and equipment and storage, a screened planted area at eighth floor level, and hard and soft landscaping. (The stated site coverage is 68% and plot ratio is 5.36.)

- External lighting, retention of the existing Macken Street entrance to facilitate access to the Iarnrod Eireann signalling building.
- The proposal includes sedem green roof construction and attenuated flow control and storage for storm water drainage prior to discharge as part of SUDS measures.

2.2. The application is accompanied by a Traffic and Transport statement (TTS) in which modest traffic generation during peak hours, based on a TRICS analysis is predicted, swept path drawings analysis. The TTS incorporates an outline Mobility Management Plan. Also included are, an Architect's Design statement, an Urban Design statement, Planning application statement, Landscaping proposals, Engineering Services Report, Flood Risk Assessment Report, Waste Management Plan (Construction and Operation stages,) Outline Construction Management Plan, Energy Statement, Built Heritage Assessment report Archaeological Impact Assessment Report, Plant Noise Assessment and Inward Noise and Vibration Assessment Report, Sunlight Assessment Report, and a screening report for appropriate assessment.

3.0 **Decision**

By order dated, 12th June, 2019 the planning authority decided to grant permission subject to conditions of a standard nature all of which are of a standard nature.

3.1. **Planning Authority Reports**

- 3.1.1. The reports of the Planning Officer, City Archaeologist, Transportation Planning Division and Drainage Division all indicated no objection to the proposed development subject to conditions of a standard nature.
- 3.1.2. The report of the conservation officer indicated major concern about the proposals for part demolition and for interventions to the historic boundary wall due to

permanent loss of architectural heritage having regard to its significant industrial heritage value.

- 3.1.3. In addition to the inclusion of standard conditions, should permission be granted, it is recommended that crucial elements of the wall be retained and incorporated into the development namely the parapet on Clanwilliam Terrace, the entire wall at the junction at Clanwilliam Terrace and Clanwilliam Square. A revision to provide for a square arch / punched opening formed in the historic wall in lieu of demolition is recommended.

3.2. **Third Party Observations**

- 3.2.1. Observations were submitted by or on behalf of occupants of residential properties and businesses in the vicinity including the appellant party. Issues and concerns raised are that of:

- Potential contaminated lands within the site and the necessity for assessment and possible mitigation.
- Air pollution and Dust Noise and vibration during construction and enabling works
- Construction traffic management
- Overshadowing and overlooking of Macken Street Villas and surrounding residential properties.
- Impact on the amenities of the public realm and community facilities including the adjoining playground.
- Excessive height, mass and scale and intensity of development, having regard to site coverage and plot ratios.
- Adverse impact on the historic fabric and on industrial heritage interest of the retaining wall.

4.0 **Planning History**

There is no record of planning history for the application site.

5.0 Policy Context

5.1. Development Plan

The operative development plan is the Dublin City Development Plan, 2016-2022 According to which the site location comes within an area subject to the zoning objective: "Z6": *to provide for the creation and protection of enterprise and to facilities opportunities for employment creation.*

The location is also within the Docklands Neighbourhood Strategic Development and Regeneration Area 6 (SDRA 6) which encompasses former docklands areas both north and south of the River Liffey and is defined as capable of delivery of a significant quantum of residential and employment related development. Section 14.8.6 provides for recognition of the strategic importance of the important landbanks for employment use.

The indicative site coverage is sixty percent and indicative plot ratio is 2.0-3.0

Part of the site, at the east side is within the area is designated as ' *The Grand Canal Conservation Area*' associated with the Grand Canal Docks. Policy Objective CHC 4 in conjunction with section 11.1.5.4 provides for preservation and protection of the special interest and character of the city's conservation areas and encouragement of development that enhances and protects the character and settings of these areas where possible.

Section 16.7.2 provides for a maximum building height of twenty-eight metres, excluding plant assumed to be commensurate with seven storeys based on three metres per storey, except where there are separate provisions such as in a Local Area Plan or SDRA.

According to Policy Objective CHC 5 the planning authority resists total or substantial loss of protect protected structures and other structures positively contribution in all but exceptional circumstances with demonstration of the public benefits that outweigh the case for retention.

Within the Greater Dublin Area cycle network plan, the route along Grand Canal Quay a primary route and greenway and it is also a major strategic pedestrian route. The location is within Area 1 for carparking standards as set out in section 16.38 and

Table 16.1 providing for one space per 400 square metres gross floor area. According to table 16.2 there is a requirement for one cycle space per 100 square metres generating a requirement for 199 spaces.

The site location is outside of the area of the North Lotts and Grand Canal Dock Planning Scheme, an SDZ for the wider docklands area.

5.2. **Section 28 Strategic Guidance:**

“Urban and Building Heights: Guidelines for Planning Authorities” (2018)

(Building Height Guidelines, 2018)

Development plan policies, objective and standards are superseded by the guidance and recommendations and standards within these Guidelines which were issued further to the National Planning Framework providing for sustainable consolidation and intensification of development as appropriate in serviced urban areas.

Development Management Criteria are set out in section 3.2.

SPPR 1 provides for increased building height and density in locations with good public transport access for redevelopment, regeneration and infill especially in town and city centres, to secure the NPF objectives.

SPPR 2 provides for appropriate use mixes and for block delivery sequencing in urban redevelopment, for comprehensive commercial, retail, and residential uses to enable economic and social needs to be met.

SPPR 3 provides for approval of proposals for development of higher buildings that may not be consistent with development plan standards subject to criteria set out in section 3.2.

6.0 **The Appeal**

6.1. **Grounds of Appeal**

6.1.1. A third-party appeal was received from Paula Kinsella of Macken Villas on 9th July, 2019 the contents of which can be outlined as follows:

- Protective measures for noise and vibration and dust control, decontamination and traffic management, circulation, access and parking during the construction stage required, by condition attached to the planning authority

decision to be implemented must be strengthened and clarified because the information available is insufficient. A monitoring committee should be established with residents of Macken Villas, Macken Street and Conway Court. Residents believe that a construction management plan should be available. In addition, there are concerns as to measures for the protection of the CIE bridge and as to potential for structural damage to the properties at Macken Villas and Macken Street.

- With regard to the need for decontamination it is stated that the site has formerly been used for storage of diesel and other contaminants. Comprehensive details in a method statement of proposals for amelioration are necessary.
- There is no provision for a baseline study and for monitoring at the houses in Macken Villas and Macken Street and Conway Place of air quality and noise and vibration levels during construction and an acoustic screen should be put in place.
- The submitted construction management plan lacks detail on proposals for construction workers' parking, or a realistic mobility management plan. A phasing plan on traffic circulation at the different stage and prior notice of out of hours work and associated traffic. Lorries should not have access before 7 am in the mornings. It does not address the safety and amenity of the residents, their properties and community facilities, including a playground and the protection of the CIE bridge. The liaison Committee should be put place in advance of construction.
- There are concerns as to the structural stability of the Macken Villas, Macken Street and Conway Place properties. Baseline studies and ongoing monitoring is required.
- The height, massing and volume of the proposed block is excessive and overbearing. It should be reduced in order to protect the residential amenities of the Macken Street and Macken Villas properties. The block is very close to Macken Villas. It is in conflict with the "Z1" and the "Z2" zoning objectives, the latter of which applies to Macken Street. Macken Villas will be overshadowed.

6.2. Applicant Response

6.2.1. A submission was received from the applicant's agent on 8th August, 2019 in which the appellant party's concerns are acknowledged and in which it is requested that the planning authority decision to grant permission be upheld. It is stated that construction stage procedures and design measures to be implemented to safeguard residential amenities are set out in the application documentation. According to the submission:

- On appointment of a contractor there will be a major expansion of the information in the construction management plan which will be fully detailed, and a Residents' Liaison Officer will be appointed prior to appointment of a contractor who will have regular meetings with residents and will provide regular updates on the project, during the construction phase.
- With regard to contaminated land, the Construction and Demolition Waste Management Plan, (required under Condition No 4 of the planning authority decision.) The applicant is willing to accept a similar condition for a comprehensive contaminated soil management plan to be prepared if hazardous material is uncovered during enabling works and early excavation. It will be submitted for review by the Waste Regulations Unit of the planning authority.
- The Residents' Liaison Officer will agree monitoring locations and noise screening measures with the residents in advance of commencement of the development with residents. A baseline assessment will be undertaken, and monitoring will take place throughout the construction stage as provided for in the Outline Construction Management Plan.
- The Outline Construction Management Plan (Section 6) includes details of access, parking and vehicle numbers and movements and full details will be available in the construction traffic management plan to be drawn up following appointment of a contractor and consultation with the Garda Siochana and agreed with the planning authority. Any changes will be communicated to residents through the Residents Liaison Officer. Liaison with CIE will be ongoing to ensure the safety of the railway line. The Outline

Construction Management Plan provides details of works management close to the bridge and rail line.

- Condition No 13 provides for a detailed construction management plan which will cover noise and vibration air quality and general amenity, the protection of the amenities of the existing playground and other considerations in consultation with the residents' liaison officer and it is to be prepared following appointment of a contractor which will be agreed with the planning authority.
- No works will take place near the boundary wall with the existing playground to the north of the site . The use of the access on Macken Street is to be confined to the early stages only, pending construction of the Grand Canal Quay access.
- Section 5.2 of the Outline Construction Management Plan provides details of air quality and dust monitoring which will be continuous through the construction stage to ensure levels within EPA limits. Water based suppression will be used when necessary and further details will be in the Construction Management Plan required following appointment of the contractor.
- The separation distance from Macken Villas range from 21.3 to 49.9 metres. The combined setbacks at fifth and seventh levels and parapet design ensure overlooking is prevented. (Drawing No PA_102 refers.)

6.3. Planning Authority Response

There is no submission from the planning authority on file.

6.4. Further Submissions.

A further submission was received from the Appellant on 10th September, 2019.

According to the submission.

- the quantum of development and the scale, intensity and height is too great. The separation distances from adjoining developments are insufficient. It is virtually impossible to protect the amenities of residential properties.

- The appellant still considers that there are major constraints with regard to scope for assessment of the reality of the proposed development in the absence of the detailed construction management plan. Many of these details are required in advance of a grant of permission and strongest possible protections should be included in the conditions should be attached if permission is granted. An eight-week management plan should be provided to the planning authority according to the submission.
- Conditions should include requirement for pre-testing with regard to the contamination of soil, the strongest possible protective measures against structural damage for the adjoining properties with regard to noise and vibration, full details of traffic movements during the construction, with no night time traffic, protective measures for the bridge.
- The appellant party raises concerns about impact of lighting during construction which could include flood lighting and light from the development during the operational stage

7.0 Assessment.

7.1. The issues raised, several of which relate to the pre-construction and construction stage and central a decision are considered under the following subheadings:

- Industrial Heritage.
- Contaminated land
- Vibration and Noise.
- Vibration and Noise.
- Construction Traffic Management.
- Parking, Construction Stage
- Construction Management Plan
- Design, height, form, scale and nature and intensity of use.
- Visual impact
- Transport and Traffic. (Operational Stage)
- Environmental Impact Assessment.
- Appropriate Assessment Screening.

7.2. Industrial Heritage.

- 7.2.1. There is no dispute that the site and the location have significant industrial heritage value and special interest, some of which is outlined in the conservation survey and assessment report and statement of significance included with the application in which the heritage interest of the railway sidings wall, which was surveyed and assessed is recognised and acknowledged.
- 7.2.2. It is of note that the applicant's submissions do not include an account of identification and assessment of alternative options for the wall in connection with the proposed development. A case is made for making the retaining function redundant and the removal of a significant section and significant interventions allowing for incorporation of an element of the wall in the main façade of the proposed building. However, it is accepted that there is little scope for alternative options for the location main entrance to the structure. There is no doubt that more historic fabric and integrity of the structure as a whole could be retained by a modified design, but it is assumed that some reduction in the overall footprint would be required.
- 7.2.3. The removal of the historic fabric is to be regretted, but there is a reasonable case for acceptance of the proposals having regard to the desirability of delivery of the national and local strategic objectives for achievement of sustainable and consolidated development on centrally located serviced lands in large urban areas, in conjunction with the 'Z15' zoning objective providing for employment and enterprise related opportunities.
- 7.2.4. It is acknowledged that the history, survey of the boundary wall statement of significance and impact statement submitted with the application is comprehensive. Should permission be granted, it is recommended that the applicant be required to provide a conservation method statement for the works, for written agreement with the planning authority providing for the works to be implemented in accordance with best conservation practice.
- 7.2.5. Bearing the foregoing in mind, it is also recommended, especially in view of the earthworks involved and the likelihood of moderate industrial archaeological potential, and the recommendations within the submitted archaeological heritage impact assessment report that a condition be included in with a requirement for an

archaeological testing and monitoring to be undertaken with a report to be prepared by an licensed archaeologist if permission is granted.

7.3. **Contaminated land**

- 7.3.1. The appellant party's concerns as to likelihood of contamination of the site lands, given its prior use are noted but it is not considered essential that investigative works be implemented in advance of determination of a decision on the proposed development. It is reasonable for an appropriate and comprehensive requirement, (inclusive of the nature and extent of methodology for investigation and decontamination and any mitigation that may be required) to be incorporated in a condition with a requirement for preparation of construction and demolition waste management plan for the development.

7.4. **Vibration and Noise.**

- 7.4.1. It is reasonable that the appellant should be concerned about potential for vibration and adverse impact on the structural stability of third-party properties given the extent and nature of the proposed development and the preparatory works to facilitate it.
- 7.4.2. With regard to the claim by the appellant that the requirements by condition could be more comprehensive, it should be borne in mind that that there is scope for measurement of noise emanating from the proposed works against the standards within BS 5228 '*Noise Control on Construction and Open Sites Part 1: Code of Practice for basic information and procedures for noise control*' and BS 4142: '*Methods for Rating industrial noise affecting Residential and Industrial areas*' are specific to the characteristics of various site environs. In this regard, it is noted that the applicant undertakes as set out in the response to the appeal, to enter in to agreement on noise monitoring locations and limitations, for measurements at site boundaries and at agreed noise monitoring locations, arranged with the Residents' Liaison Officer to be appointed is appropriate.
- 7.4.3. It should also be noted, that in relation to the inward noise and Vibration Impact Assessment and Plant Noise Assessment, (for the operational stage) prepared on behalf of the applicant, an unattended noise survey and an attended survey to establish background noise levels was undertaken in October 2018. One of the monitoring locations selected is at the south west boundary of the site close to

Macken Villas providing for some baseline data. It is established in the submissions that at operational stage, there is sufficient design mitigation, if required for control of noise emissions from plant can be accommodated and that otherwise noise and vibration, affecting the proposed structure and its occupants would be insignificant.

- 7.4.4. The applicant has given an undertaking as provided for in the Outline CMP to establish background vibrations, (some of which would be attributable to the use of the rail track) and for a vibrating monitoring system to be put in place in advance of any works to trigger an alarm if agreed limits are exceeded. The applicant has proposed values for trigger levels in the Outline CMP. A condition can be included to this effect if permission is granted to provide for enhanced clarity, to address the concerns of the appellant. The works are to be consistent with minimum BS standards and in particular those set out in, BS 5228-2: 2009 +A1: 2014 "*Code of Practice for Noise and Vibration Control on Construction and Open Site – Vibration.*" And BS 6187 "*Code of Practice for Demolition*".
- 7.4.5. Bearing in mind the proximity to the railway, to the bridge over Macken Street to which the appellant refers, and the railway infrastructure accessed from Macken Street it is noted that the applicant undertakes to appoint a specialist contractor to provide for monitoring through excavation, piling and construction works which should ensure safety and good practice.
- 7.4.6. It is reasonable that the definitive demolition and waste management plan and construction management plans provide for elaboration on the details for the proposed pre-development and construction stage works having regard to vibration and noise control and the associated safety of the surrounding built environment and the public.

7.5. **Dust/air pollution.**

- 7.5.1. The outline details within the Outline Construction Management Plan provide for a satisfactory framework for the detailed proposals to be provided within comprehensive CMP in that there is a commitment undertake air quality monitoring and to ascertain and maintain standards within the EPA's relevant limitations, stated to be a maximum of 350mg/m²/day. The undertaking to provide for the conduct of continuous monitoring by site management and to apply appropriate measures to include watering from a water cube and other water suppression measures for the

roadways and the construction vehicles and other machinery. The detailed proposals remain subject to the agreement of the planning authority through the comprehensive CMP following appointment of a contractor. It is not considered that any additional detail or requirements are necessary prior to determination of a decision on the application in that the applicant has indicated a willingness to ensure compliance with the required standards and the detailed methodology is subject to the planning authority's agreement and other codes, such as those set by the EPA.

7.6. Construction Traffic Management.

- 7.6.1. While there is no traffic generation by the site at present, it is agreed that movements, especially by HGVs and other large vehicles would be significant during the construction stage, not least during site excavation and removal of the fill to lower the level, where it is estimated that up to two, two-way trips per day would take place. This estimate, in the Outline CMP is considered realistic and reasonable given the likely extent of earth works involved although precise volumes are not available. It is acceptable that these details be made available at the time of the preparation of the demolition and waste management plan and the Outline CMP.
- 7.6.2. There is clarity as to the proposed use of the existing access of Macken Street which is short distance from Macken Villas. There is no objection in principle to the proposed haulage routes as shown in Figure 6 of the Outline CMP. It should also be noted that there are limitations in place regarding the size and height of vehicles that can pass under the railway bridges, it being necessary for an alternative route to be used where necessary. This and other related matters can be addressed in a detailed construction traffic management plan. (Construction parking demand is considered separately below in para 7.7).
- 7.6.3. While the existing access to the site is to be used during the pre-construction and construction stage it should be borne in mind that Macken Street is a main central city thoroughfare. Subject to good construction traffic planning and management, outline proposals for haul routing of which are available in the CMP it is not accepted that significant increase risk to public safety of residents by reason of traffic hazard would occur. It is reasonable for comprehensive construction traffic management details to be addressed following appointment of a contractor.

7.6.4. The applicant has also undertaken through the Outline CMP to ensure compliance with any requirement of the planning authority including those relating to conditions of road surfaces and any remedial measures necessary. It is considered that the Outline CMP and the conditions of a standard nature that are likely to be attached and which are similar to those attached to the planning authority decision provide for an appropriate framework within which the comprehensive construction traffic management plan which should include details of volumes, nature and times of trips, can be prepared and agreed with the planning authority.

7.7. Parking ,Construction Stage.

7.7.1. It is noted that there is no undertaking to make special provision for staff parking within the CMP and this is appreciable and reasonable given the site configuration, and the nature and extent of the proposed development and the central city location close to transport facilities. Those staff who do arrive by private car and visitors will be reliant of public parking facilities along with all other road users and subject to enforcement in the event of unauthorised parking. It is noted that parking facilities within the confines of Macken Villas is confined to use by residents and their visitors only as is the parking at Clanwilliam Court.

7.8. Construction Management Plan

7.8.1. An overriding concern within the appeal is that the outline construction management plan is insufficient in detail and that as a result it is not possible to fully assess the impacts on the adjoining properties and the wider environs of the site that would be attributable to various elements of the construction stage. This matter which frequently arises in connection with larger scale development proposals, especially in urban areas is understandable.

7.8.2. However, the argument that developers are not always in a position, prior to appointment of a contractor to provide comprehensive elaboration on construction stage arrangements, including mitigation measures is also reasonable. In assessing the concerns raised as follows consideration has been given to whether certain matters should be addressed and resolved prior to determination of a decision on the application, within the construction management plan, other related plan or report and/or by condition including conditions with additional specific requirements.

7.8.3. The applicant has given an undertaking to appoint a Residents' liaison officer is noted along with willingness to consult with residents over issues such as monitoring locations.

7.9. Design, height, form, scale and nature and intensity of use.

7.9.1. The proposed multiple occupancy office block which reaches a height of circa forty metres, (with plant at roof level appropriately screened) accords with the statutory policies objectives and standards provided for in the NPF and provided for in the section 28 statutory guidance *Urban and Building Heights: Guidelines for Planning Authorities* (2018) (Building Height Guidelines, 2018) and the SPPRs within it which were brought into effect following the publication of the National Planning Framework, and which supersede those within the CDP although in several respects there is no conflict between the two particularly with regard to the encouragement of consolidation of urban areas and intensive enterprise and employment creation in city core areas on serviced brown field and underutilised sites close to transport and facilities. The conclusion of the planning officer within his report that the proposed development is consistent with delivery of the objectives of the NPF as provided for in the Building Height Guidelines 2018 is fully supported.

7.9.2. With regard to potential for adverse negative impact on the residential amenities of adjoining properties and properties in the vicinity whose interests the appellant has represented, it is considered that the design and configuration of the block satisfactorily addresses the inter relationship. However, it is acknowledged that the insertion of a block of significant scale involving a high intensity commercial use amounts to a radical change in outlook and in the characteristics of the immediate environs of such development.

7.9.3. The configuration of the site and the orientation of the proposed structure to be inserted within it is such that there is no potential for overlooking in that no facades are directly opposite the main facades of the proposed block. The setbacks for the lower heights at the western end close to the residential development that Macken Villas Macken Street and Conway Court and if occupants of the block of access the external terraces there is no potential for overlooking of a passive nature in that it would be necessary for an individual to stand at the outer edges to obtain views

towards the interiors of residential developments or the small outdoor playground at the to the north side of Macken Villa and south west of the site.

- 7.9.4. With regard to potential for overshadowing by the proposed block which extends to forty metres in height towards the east side, it is demonstrated in the sunlight assessment report submitted with the application according to which a Vertical Sky Component (VSC) in excess of 27% gives reasonable levels of sunlight. in that there is compliance with the standards set out in :*Site Layout Planning for Daylight and Sunlight: Guidelines for Good Practice, 2011*,(Paul Littlefair) with regard to potential for obstruction of access to sunlight at Macken Villas. It is demonstrated that twelve of the fifty-one window are affected. Annual Probable Sunlight Hours (APSH) at least 25 per cent in summer and 5 percent in winter months. (21st September to 21st March) These criteria are exceeded in that windows facing within 80 degrees of due south The windows on the adjoining office block at One Grand Canal Quay where the VSC exceeds the limitations has also been established in the assessment.

7.10. Visual Impact

- 7.10.1. It is a significant structure which is to be inserted amongst other commercial buildings constructed during the past twenty years and others under construction and also surrounded by two to five storey developments from various stages of the twentieth century into an evolving skyline Although substantial, the form, configuration and setbacks are such that it does not appear as a massive block on approach along Macken Street and Grand Canal Quay and fits behind structures in the views from longer range vantage points. It is acceptable in the skyline and does not adversely affect any protected views or the setting and context of any protected structures or groupings of architectural interest and character within Architectural Conservation Areas of designated conservation areas within the CDP.
- 7.10.2. Subject to finalisation of details by condition, which is standard practice it is considered that the proposed development is acceptable and that no modifications are required.

7.11. Transport and Traffic - Operational Stage

- 7.11.1. Given the proposals for access from Grand Canal Street and the concentration of vehicular and pedestrian movements to and from the site on Grand Canal Quay, It is considered that any change in traffic conditions attributable to the proposed

development that potentially has negative impact for the residential amenities and health and safety of the occupants of residential development is at the most marginal. The 'modest' Trip generation predictions based on the TRICS modelling and analysis can be accommodated notwithstanding the lack of trip generation by the site in its existing use and the strategic location, in the inner-city road network.

- 7.11.2. The vehicular access arrangements at the Grand Canal Quay frontage are comprehensive enough in detail to allow for positive consideration in respect of geometry, capacity and range and extent of vehicular use which includes commercial deliveries and services traffic and waste removals, as provided for in the written submission and accompanying drawings both in relation to volumes and the technical standards for the proposed entrance which accord with DMURS requirements.
- 7.11.3. A mobility management plan is considered to be an excessive and an unwarranted requirement for the construction stage whereas if it is essential to the operational stage, given that the proposed development would have considerable capacity for accommodation of large numbers of employees, given the total stated gross floor area of almost 20,000 square metres. An undertaking is given to appoint a Mobility Manager to draw up and oversee the MMP. An outline and an undertaking are provided for in section 6.2.1 of the Transport and traffic Statement which is considered adequate. It is also of note that there is a wide range of transport options with high frequency of public transport options in the immediate environs. This has been addressed in the submitted Traffic and transport Statement. This can be addressed by condition and it can already be seen by way of the large number of cycle space provision and minimal private carparking facilities, that the applicant is committed to encouragement of sustainable transport modes.
- 7.11.4. Notwithstanding the CDP standards, it is considered that three motor cycle parking space is conservative but this is a matter that could be revised, subject to compliance with a condition, if deemed necessary.

7.12. **Environmental Impact Assessment Screening.**

- 7.12.1. Having regard to the nature of the proposed development and its location in a serviced inner urban area, removed from any sensitive locations or features, there is no real likelihood of significant effects on the environment. The need for

environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

7.13. **Appropriate Assessment Screening.**

7.13.1. The applicant has included an appropriate assessment screening report, prepared by Openfield Ecological Services with the application which has been consulted for appropriate assessment screening purposes.

7.13.2. The location is not adjacent to or within the designated area of any European sites.

It is within a zone of influence of the following sites:

- South Dublin Bay SAC (0210),
- South Dublin Bay and River Tolka SPA (4024).
- North Dublin Bay SAC (0206)
- North Bull Island SPA (4006)
- Poulaphouca Reservoir (SPA 4063)

7.13.3. Several bird species, (especially wintering birds) are the features of interest within the South Dublin Bay and River Tolka SPA (4024) North Bull Island SPA (4006) Dublin Bay is an internationally important site for waterbirds being so designated because it has a population of over 20,000 birds on a regular basis. Some of the species which are designated features of interest, are of high conservation concern: Dunlin, which seriously declined in population does not breed on the east coast; Breeding sites for wintering Redshank have reduced significantly due to habitat loss from agricultural intensification and drainage. Black headed Gull the breeding sites for which have declined, does not breed in the Dublin area. Pintails and Shoveler are recorded as in decline in Dublin Bay and Wintering Curlew has a favourable status but a slight decline. Grey Plover, Shelduck, Pintail, Golden Plover and Blackheaded Gull are of unfavourable conservation status their decline not being confined to Dublin Bay alone with the exception of Shoveler has significant decline due to the conditions., Roseate Tern, Common Tern, Arctic tern, Redshank, Teal and the Curlew) have also been in decline for a range of reasons, some unknown.

7.13.4. For the South Dublin Bay and River Tolka SPA (4024) and North Bull Island SPA (4006) The conservation objective is for maintenance of the population trend that is

stable or increasing and increasing distribution in time and space to restore or maintain the favourable conservation condition of the species.

- 7.13.5. For Poulaphouca Reservoir (SPA 4063) which is twenty-five kilometres approximately from the site location, the features of interest are the greylag goose *Anser anser* and, the Lesser Black-backed Gull *Larus fuscus*. The conservation objective is to restore or maintain the favourable conservation condition of the species.
- 7.13.6. There are four designated qualifying interests for the South Dublin Bay SAC (0210) They are: Annual Vegetation of drift lines (1210), Embryonic shifting dunes, (2110), Tidal mudflats (1140 and Salicornia mudflats (131) and North Dublin Bay SAC (0206)
- 7.13.7. There are four designated qualifying interests North Dublin Bay SAC (0206). They are, Shifting dunes along the shoreline with *Ammophila arenaria* (white dunes) (2120), Fixed coastal dunes with herbaceous vegetation (grey dunes) (2130), humid dune slacks (2190) and Petalwort (1395)
- 7.13.8. Specific conservation objectives are set for the mudflats in Dublin Bay SAC and for all qualifying interests in the North Dublin Bay SAC relating to habitats community extent, structure and distribution. There are no conservation objectives relating to water quality.
- 7.13.9. The site of is mainly under hard standing, has a stated area of 3,702 square metres, is located between the Docklands and the Grand Canal and is that of a railway siding which is in use for storage of trains when they are out of service. It has also been the site of a former lime works, the Boston Lime Company, following which it was known as the Boston sidings lands, and the City of Dublin, (Boland's) Bakery. The level was raised to circa three metres above that of the road to provide for a railway siding originally constructed in the nineteenth century. The Dublin - Wexford railway embankment is located on the north side. The site is otherwise surrounded primarily by the public road network and commercial buildings, many of which are of relatively recent construction.
- 7.13.10. The project is for an office development for which earth and site clearance involves removal of fill which facilitated the raising of the level for the railway sidings by circa three metres. The level is to be returned to that of the adjoining public roads

and any necessary decontamination is to be undertaken should pollutants be found to be present following investigative works and construction of a commercial office development. The proposed development will when in occupation will generate increased volumes of wastewater.

- 7.13.11. New surface water drainage infrastructure is to be provided to serve the development. Foul effluent is to be disposed of via the public sewer network and onwards to the Ringsend Treatment Plant. Poor water quality has been at issue in Dublin Bay, but improvements have occurred since the 1990s due to improvements in trophic status and the commissioning of the Ringsend Treatment Plant. Upgrading and improvements to the Ringsend Plant and the provision of a new treatment with a target completion date in 2023 will increase capacity to address current shortfalls in compliance with the Urban Wastewater Treatment Directive and will provide for future capacity demands. Poor water quality is a risk to some bird populations.
- 7.13.12. There are hydrological pathways of circa five metres to the Dublin Bay and River Tolka Estuary SPA and Dublin Bay SAC is circa two kilometres and to Bull island 4.8 kilometres via via surface water flows to Dublin Bay via the treatment plant, but surface water will not flow to the River Tolka. Additional loading on to the plant at Ringsend is insignificant as there is no evidence of pollution through nutrient input that affects the conservation objectives of the South Dublin Bay and Tolka Estuary SPA.
- 7.13.13. Construction stage sediment will not enter the tidally influenced watercourses. Large quantities of sediment are deposited in estuaries as part of the natural function and the additional quantities are insignificant and temporary. Dust will be localised and temporary and is to be managed.
- 7.13.14. No specific or in combination effects are anticipated that would be significant in effect to sites within the zone of influence. Having regard to the nature of the proposed development and, to the serviced inner-city location, no Appropriate Assessment issues 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

In view of the foregoing, it is recommended that the planning authority decision to grant permission be upheld. Draft reasons and considerations and conditions follow.

9.0 Reasons and Considerations

It is considered that subject to compliance with the conditions set out below, the proposed development would accord with national strategic planning policy and local planning policies and objectives for the area, would not seriously injure the visual and residential amenities of the area or adversely affect the development potential of adjoining lands, would be acceptable in terms of traffic safety and convenience and would not be prejudicial to public health. 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 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. The applicant shall carry out survey and investigative works to establish the presence of contaminants within the site. In the event of the presence of contaminated soil or hazardous materials being located, a hazardous contaminated soil management plan a report prepared by a competent person to include details of estimated quantity and of the nature of contaminants and hazardous materials present and a proposed methodology for decontamination and removal and disposal of pollutants and other hazardous materials.

All arrangements for clearance and decontamination of the site and for construction of the development shall be managed in accordance with a Demolition and Waste Management Plan which shall be prepared, submitted and agreed with the planning authority prior to commencement of development. The plan shall be 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.

Reason: In the interest of public health, safety and amenity.

3. Prior to the commencement of development, the applicant shall submit and agree in writing with the planning authority, a comprehensive construction management plan which shall include full details of the following requirements.
 - (a) Appointment of a residents’ liaison officer prior to the commencement of the development and for the entirety of the construction stage, including the pre-construction period. The residents’ liaison officer shall agree a protocol for the management of communication and consultation with representatives of the residential community and in particular, noise and vibration monitoring locations and baseline data for measurement of same, noise/acoustic screening measures, construction traffic management and measures for protection of air quality.
 - (b) the location of the site and materials compounds including areas identified for the storage of construction refuse; areas for construction site offices and staff facilities; site security fencing and hoardings; and on-site car parking facilities for site workers during construction;
 - (c) The timing and routing of construction traffic and associated directional signage, to include proposals to facilitate the delivery of abnormal loads to the site; measures to obviate queuing of construction traffic on the adjoining road network; and measures to

prevent the spillage or deposit of clay, rubble or other debris on the public road network.

- (d) Details mitigation measures for noise, dust and vibration, and for monitoring, including noise monitoring locations for the purposes of the construction phase of the proposed development. Noise levels shall accord with the standards set out in BS 5228: “*Noise Control on Construction and Open Sites Part 1 Code of Practice for Basic Information and procedures for noise control*” and, shall not result in grounds for complaint as provided for in B.S. 4142. “*Method for rating industrial noise affecting mixed residential and industrial areas*”
- (e) Containment of all construction-related fuel and oil within specially constructed bunds to ensure that fuel spillages are fully contained. Such bunds shall be roofed to exclude rainwater;
- (f) Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains.
- (g) A 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.
- (h) Hours of work which shall be confined to 0700 to 1900 Mondays to Fridays inclusive, excluding bank holidays and 0800 to 1400 hours on Saturdays. Deviation from these times will only be allowed in exceptional circumstances subject to the prior written agreement of the planning authority.

Reason: In the interests of clarity, residential and public amenities, health, safety and sustainable development.

4. An architect with specialist expertise in historic building conservation shall be appointed to ensure the implementation monitoring and management of works in accordance with best conservation practices and, *Architectural Heritage Protection; Guidelines for Planning Authorities*, (DOEHLG, 2005), The appointee shall provide for the satisfactory protection and retention of the

historic fabric on the retaining wall and shall prepare and supervise the interventions to the construction and fabric of any sections of the retaining wall proposed for removal which shall be disassembled, numbered and catalogued suitable for reinstatement, and recorded and photographed in accordance with the requirements of the planning authority. The following requirement shall be provided for:

- (a) The parapet of the wall on the boundary with Clanwilliam Terrace, and the wall in entirety at the junction of Clanwilliam Terrace and Clanwilliam Square shall be retained in entirety.
- (b) A square arch/punched opening within the historic wall to provide for the proposed entrance at Grant Canal Quay. (Demolition in entirety at this location is not acceptable). Full details of the proposed works set out in a detailed conservation method statement and accompanying drawings shall be submitted and agreed in writing with the planning authority prior to commencement of development.

Reason: In the interest of clarity and the conservation interest of significant industrial heritage in accordance with good practice.

- 5. The developer shall facilitate the archaeological appraisal of the site and shall provide for the preservation, recording and protection of 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, and
 - (b) employ a suitably-qualified archaeologist prior to the commencement of development. The archaeologist shall assess the site and monitor all site development works.The assessment shall address the following issues:

- (i) the nature and location of archaeological material on the site, and
- (ii) the impact of the proposed development on such archaeological material.

A report, containing the results of the assessment, shall be submitted to the planning authority and, arising from this assessment, the developer shall agree in writing with the planning authority details regarding any further archaeological requirements (including, if necessary, archaeological excavation) prior to commencement of construction works.

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 area and to secure the preservation (in-situ or by record) and protection of any archaeological remains that may exist within the site.

6. The developer shall provide for the following requirements at the Grand Canal Quay entrance:
 - (a) The public footpath shall be continued at a raised level across the entire width of the entrance and exit but ramped and dropped as necessary to facilitate the car entry exit.
 - (b) Access to the car lifts shall be prioritised in favour of Incoming traffic over exiting traffic.
 - (c) Signage, road markings to provide for priority for pedestrians and cyclists over cars on entry and exit at the site and contrasting materials at the site entrance.

Full details shall be agreed in writing with the planning authority prior to the commencement of the development.

Reason: In the interest of public amenity and safety and clarity.

7. One hundred and ninety-nine cycle parking spaces shall be provided within the site. The layout and demarcation of these spaces and of the internal

cycle access route shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason To facilitate sustainable modes of transport.

8. Prior to the occupation of the development, a Mobility Management Strategy shall be submitted to and agreed in writing with the planning authority. This shall provide for incentives to encourage the use of public transport, cycling, walking and car-pooling by staff employed in the development and to reduce and regulate the extent of staff parking. The mobility strategy shall be prepared and implemented by the management company for all units within the development. Details which shall be agreed with the planning authority shall include the provision of centralised facilities within the development for bicycle parking, shower and changing facilities associated with the policies set out in the strategy.

Reason. To encourage the use of sustainable transport modes.

9. The landscaping plan and boundary treatment, and external communal amenity space provision shown in the application shall be fully implemented within the first planting season following completion of construction.

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

10. Water supply and drainage arrangements, including the attenuation and disposal of surface water, which shall incorporate SUDS drainage methods and shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health.

- 10 The developer shall enter into water supply and waste water connection agreements with Irish Water, prior to commencement of development.

Reason: In the interest of public health.

- 11 All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located

underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development. All existing over ground cables shall be relocated underground as part of the site development works.

Reason: In the interests of visual and residential amenity.

12 Communal waste storage areas shall be designed and managed in accordance with the proposals within an operational waste management plan lodged with the planning authority. Waste materials shall be transferred to the designated surface level space on the day of collection only.

Reason: In the interests of residential and public amenities.

13 No additional development, including lift motor enclosures, air handling equipment, storage tanks, ducts or external plant, or telecommunication antennas, shall be erected at roof level other than those shown on the plans lodged with the application. All equipment such as extraction ventilation systems and refrigerator condenser units shall be insulated and positioned so as not to cause noise, odour or nuisance at sensitive locations.

Reason: In the interests of visual amenity.

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

Reason: In the interest of the visual amenities of the area.

15 Proposals for a name and numbering scheme and associated signage for the proposed block shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of urban legibility.

16 Details of a public lighting scheme to include measures to prevent light spillage into adjoining residential properties, shall be submitted to and agreed in writing with the planning authority, prior to the commencement of development.

Reason: In the interest of public safety and visual amenity.

- 17 The management and maintenance of the proposed development, following completion, shall be the responsibility of a legally constituted management company, which shall be established by the developer. A management scheme, providing adequate measures for the future maintenance of the development; including the external fabric of the buildings, communal spaces, landscaping, roads, paths, parking areas, lighting, waste storage facilities and sanitary services, shall be submitted to and agreed in writing with the planning authority, prior to occupation of the development.

Reason: In the interest of amenity and orderly development.

- 18 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.

19. 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.

Jane Dennehy
Senior Planning Inspector
25th September, 2019.

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