



An
Bord
Pleanála

Inspector's Report ABP305675-19

Development

Demolition of Elm House, Block 1
Clanwilliam Court, Clanwilliam House
and the construction of a commercial
office building accommodating
Restaurant/Bar/Gym and Town Hall
together with ancillary works.

Location

Clanwilliam Court, Clanwilliam Place
and Lower Mount Street, Dublin 2.

Planning Authority

Dublin City Council.

Planning Authority Reg. Ref.

3159/19.

Applicant

Hibernia REIT PLC.

Type of Application

Permission.

Planning Authority Decision

Grant.

Type of Appeal

Third Party -v- Grant.

Appellant(s)

- (i) Brian Higgins,
- (ii) Raymond McKiernan,
- (iii) Tom and John Kelly,
- (iv) Denise Holland,
- (v) Patricia Brennan.

Observer(s)

None.

Date of Site Inspection

14th January, 2020.

Inspector

Paul Caprani.

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1.0 Introduction

ABP305675-19 relates to multiple third party appeals against the decision of Dublin City Council to issue notification to demolish existing office buildings at Elm House, Clanwilliam House and Clanwilliam Court and replace them with a commercial and office building ranging in height from four to seven storeys accommodating a gross floor area of circa 18,629 sq.m at a site bounded by Mount Street, Clanwilliam Place and Love Lane. The main issues raised in the multiple third-party appeals relate to site ownership and right of way issues, overdevelopment of the subject site, impact on adjoining residential amenities, procedural issues and the validity of the application and appeal currently before the Board.

2.0 Site Location and Description

- 2.1. The appeal site is located on the south-eastern periphery of the city centre on the city side of the Grand Canal, circa 2 kilometres from Dublin City Centre. The subject site is roughly rectangular in shape and occupies an area of 0.54 hectares. The site comprises of the southern portion of the urban block bounded by Mount Street to the south-west, Clanwilliam Place to the south-east, Grand Canal Street Lower to the north-east and Love Lane to the north-west. Two office blocks, the Velasco building and Ospray House separate the subject site from Lower Grand Canal Street to the north-east.
- 2.2. The site accommodates a collection of office buildings dating from the late 1960s/early 1970s generally ranging from four to six storeys in height over a double basement which is currently used for car parking. The existing buildings comprise of a brown coloured brick façade with horizontal bands of glazing on each floor along the external elevation. An internal courtyard area separates the two main buildings on site, Elm House and Clanwilliam House.
- 2.3. The north-western corner of the site incorporates a six-storey residential block of apartments referred to in the documentation submitted with the application as “Block 6”. This block of apartments is located between Love Lane and the internal courtyard in the central portion of the site. The documentation submitted with the application

indicates that the applicant has partial ownership of this building. The site has access points onto Clanwilliam Place, Mount Street Lower and Love Lane.

- 2.4. In terms of surrounding land uses, the site is located in a mixed-use area with office use being the predominant use particularly along Mount Street. The south-eastern elevation faces onto Clanwilliam Place and a linear strip of open space along the Grand Canal. The opposite side of the Grand Canal to the south-east is predominantly in residential use. A large apartment complex known as “Northumberland” ranging from three to seven storeys in height is located directly opposite the site on Love Lane. The former St. Patrick Dunne’s Hospital is located to the north-east of the site. The Velasco building at the junction of Clanwilliam Place and Canal Street Lower comprises of a five-storey glass building.

3.0 Proposed Development

- 3.1. It is proposed to demolish the existing buildings on site (with the exception of Block 6 the residential block at the end of Love Lane) and to construct a more contemporary style replacement building incorporating extensive glazing on the elevations. The building extends around the entire perimeter of the site incorporating a somewhat smaller courtyard than that which currently exists. The building is to range between four and seven storeys in height with the highest element at the corner of Mount Street and Clanwilliam Place. The upper storeys along the corner of Mount Street and Love Lane and along Love Lane are set back from the building line. The ground floor is slightly recessed at the main entrance near the corner of Mount Street and Clanwilliam Street and incorporates a double height entrance foyer. The external elevation onto Mount Street and Clanwilliam Street is six to seven storeys in height. The elevations facing into the internal courtyard step back progressively from six to four storeys in height.
- 3.2. In terms of internal layout, it is proposed to incorporate two basements, a lower and upper basement. The lower basement accommodates car parking, plant and switchrooms etc. The upper basement accommodates additional car parking including the entrance to the car park off Love Lane (as is the case in the current building configuration). The upper basement also incorporates bike storage, refuse storage, a basement gym, locker rooms, showers etc. associated with the gym and a

lower level associated with a ground floor bar and restaurant which fronts onto Mount Street. Finally, office accommodation at the corner of Mount Street and Clanwilliam Street is also located at upper basement level.

- 3.3. The ground floor accommodates a bar and restaurant (478 square metres in total), office accommodation, the gym reception area and an auditorium/conference space referred to in the drawings as “the Town Hall” and this space is located adjacent to the Love Lane elevation).
- 3.4. The upper floors comprise exclusively of office accommodation wrapped around the central core.
- 3.5. At basement level it is proposed to provide 42 car parking spaces and 384 bicycle parking spaces. The gross floor area of the development including the upper basement level is stated as 18,629 square metres.
- 3.6. The development also proposes upgrading the central courtyard and podium area and associated landscaping works. It is proposed also to provide green roofs (sedum roofs) on the lower stepped back roof levels. Plant equipment is located at the top roof level.

4.0 Planning Authority’s Assessment

4.1. Decision

- 4.1.1. Dublin City Council issued notification to grant planning permission for the proposed development subject to 13 standard conditions.

4.2. Documentation Submitted with Planning Application

- 4.2.1. The planning application was lodged on 31st May and was accompanied by the following reports:
 - A Planning Report by Brady Shipman and Martin. The planning report sets out details of the site location and the site ownership pertaining to the site. It also sets out details of the planning history associated with the subject site and adjacent sites. The design rationale behind the proposed development is also set out. The report highlights the general compliance with the policies and

provisions contained in the development plan and results in significant public realm upgrades and the incorporation of active frontages. It is argued that the proposal makes respects the amenities of adjacent residential buildings including residential Block 6, and the Northumberland development on the opposite side of Love Lane. The overall car parking provided represents a 76% reduction from that which currently exists on site and it is also stated that the cycle parking provision is well in excess of the development plan requirements.

- The report also contains an EIA screening exercise which concludes that the proposal falls considerably short of a mandatory EIA requirement under the thresholds set out in Class 10(b)(4) of Part 2 of Schedule 5 of the Regulations. In terms of a subthreshold EIA it is considered that the proposed development will not give rise to significant effects on the environment by way of its size or design.
- Also submitted was a Traffic Impact Assessment Report prepared by Rowan O'Donovan Engineers. It sets out details of the site description and the existing baseline traffic environment which serves the site. Details of the car parking, bicycle parking, loading and servicing arrangements are also set out. In terms of impacts it is noted that there will be a significant reduction in parking provision and therefore the site will be reliant on more sustainable forms of transport. Deliveries and drop-off will be catered for by a new loading bay on Mount Street Lower. It is considered that the proposed development will not result in any appreciable adverse traffic impacts on the surrounding road network.
- Also submitted was a separate Framework Mobility Management Plan also prepared by Rowan O'Donovan Engineers. It provides details of mobility plan administration arrangements and details commitments towards mobility management. It proposes to incorporate a travel database and increase travel awareness towards more sustainable forms of transport for future occupants of the buildings. The success of the mobility management plan will be predicated on the fact that the site is located in an area which is well served by public transport.

- A Site Services Report prepared by Cora Consulting Engineers was also submitted. This report sets out details of the existing infrastructure serving the site making specific reference to foul water drainage, surface water drainage, watermains and flood risk assessment. The flood impact assessment states that the site has overall, a low-level risk in relation to flooding.
- A Preliminary Construction and Environmental Management Plan prepared by Cora was also submitted. This sets out details of the waste management plan and the environmental management plan in relation to general site works including dust management, noise management and vibration management. It is also proposed to appoint a community liaison officer to keep local residents and traders informed of progress and timing of construction.
- A Daylight and Sunlight Report from JV Tierney and Co was submitted. The analysis indicates that the redevelopment of the subject site is unlikely to result in any undue adverse impacts on buildings surrounding the application site in accordance with the standards set out in the BRE Guide.
- A Sustainability and Energy Efficiency Report prepared by JV Tierney Engineers sets out details of the measures incorporated into the design to make the building as sustainable and energy efficient as possible.
- An Operational Waste Management Plan was prepared by Awn Consulting. It sets out details of an overview of waste management in Ireland and details the estimated waste arisings derived from the proposed development. It goes on to set out details of waste storage and collection associated with the office development, retail development, the gym and the auditorium. It concludes that the designated area for waste storage (in the basement) will provide sufficient room for the required receptacles in accordance with the details set out in the Strategy.
- Also submitted is a Preliminary Fire Service and Ambulance Personnel Access Strategy prepared by Maurice Johnson and Partners.
- Screening for Appropriate Assessment by Brady, Shipman and Martin identifies the nearest Natura 2000 sites within a 15 kilometre zone of the site (18 sites were identified). However, no links to European sites have been identified and there will be no loss of any habitat or species listed as qualifying

interests or special conservation interests. The report therefore concludes that on the basis of the above, there will be no adverse impact on any European sites as a result of the proposed project on its own or in combination with other plans and projects in light of their conservation objectives.

- An Architectural Design Report was prepared by Shay Cleary Architects. It sets out details of the site location context, ownership and boundaries. It sets out the design opportunities and constraints and the overall design concept relating to the site, making specific reference to massing, form and scale, public realm, access and uses. It concludes that the proposal will result in a comprehensive enhancement of the public realm on streets surrounding the site with strong visual connectivity and a range of active street uses. It is considered that the proposal provides a palette of materials and finishes which are elegant and the building will deliver a 21st century standard workplace.
- A Landscape Design and Access Statement was submitted. This report sets out details of a landscape masterplan relating to the site making specific reference to landscape, furniture, softscape and lighting.
- Lastly a series of Photomontages are submitted prepared by Brady Shipman and Martin showing the existing and proposed development from various vantage points in the vicinity of the subject site. A total of 8 vantage points are depicted and assessed.

4.3. Initial Assessment by Planning Authority

4.3.1. A report from the City Archaeologist recommends that in the event that planning permission is granted, a standard archaeological condition be attached.

4.3.2. A report from Dublin City Council Drainage Division and Dublin City Council Transportation Planning Division both recommend additional information be submitted prior to determining the application.

4.3.3. The initial planner's report notes that the proposed development in principle has the potential to upgrade a very prominent location in the city and improve the public realm. However, the further information requested by the Drainage Department in relation to:

- The accuracy of the detail on the drainage drawings.
- Further details with regard to surface water management and surface water storage calculations.
- A revised flood risk assessment.

4.3.4. Further information requested from the Transportation Planning Department related to

- Further details in relation to the loading bay arrangements are required,
- Details of a servicing management plan,
- Justification for the requirement for bollards along the footpath at Mount Street.
- The type of cycle parking proposed is also requested.
- The applicant is also requested to submit clarification as to whether some of the footpaths surrounding the site is within private ownership.
- The applicant is also requested to submit a drawing detailing any areas to be taken in charge by Dublin City Council.

4.3.5. Finally, the applicant is requested to submit an annual probable sunlight study for the courtyard of the existing and proposed development.

4.4. Further Information Response

4.4.1. The applicant submitted the following response on 23rd August, 2019. The response sets out further details in relation to loading bays. It is also confirmed that there are no bollards proposed on Mount Street. Further details of the area which are to be taken in charge by Dublin City Council are also set out. The applicant also addresses the drainage concerns raised by Dublin City Council and includes a revised site services report which includes a revised flood risk assessment.

4.4.2. In relation to the final issue it is stated that in consultation with Dublin City Council Planning Department it is being confirmed that an annual probable sunlight study is not appropriate for assessment of light to outdoor areas. Instead the applicant has provided appropriate lighting study for outdoor areas as per the BRE Guidelines. It is further stated that the podium in question is not a garden or amenity area as defined

by the BRE Guidelines and technically therefore does not require assessment for sunlight. Notwithstanding this a report is enclosed which assesses the sunlight received from the podium at the Clanwilliam Court redevelopment. It notes that the podium access area either as existing or proposed does not meet BRE Guidelines standards for the vernal equinox. It does however meet the standards for mid-summer.

- 4.4.3. A revised planning report considers the additional information to be acceptable and also considers as the proposed development will contribute to the employment and public realm of the area and would therefore be in accordance with the proper planning and sustainable development of the area. Dublin City Council therefore issued notification to grant planning permission on 19th September 2019.

5.0 Planning History

- 5.1. No history files are attached. Details of the planning history are contained in the Planning Report submitted with the application and also the local authority planner's report. The relevant planning history is set out below.
- 5.2. Under Reg. Ref. 2234/18 (Appeal Ref. ABP301468-18) An Bord Pleanála upheld the decision of Dublin City Council to grant planning permission for an extension and alterations of an office development on the adjacent Marine House building between the Velasco building and the subject site. Planning permission was granted on 7th December, 2018.
- 5.3. Under Reg. Ref. 6664/07 (Block 1), planning permission was granted by An Bord Pleanála for the demolition of an existing office building, retaining the two existing car park levels together with the reduction of car parking from 78 spaces to 57 spaces. The provision of 60 new cycle spaces and the construction of a seven storey office building over the existing basement comprising of five storeys and two setback storeys fronting onto Lower Mount Street with a gross floor area of 5,219 square metres. Permission was granted in October, 2008. An extension of duration of permission was granted in December, 2014 under Ref. 6664/07x1.
- 5.4. Under Reg. Ref. 6485/06 An Bord Pleanála refused planning permission for the demolition of an existing office building consisting of four storeys plus setback above ground floor level and to construct a new office building in its place of seven storeys

plus an additional setback eight storey having a gross floor area above ground level of 5,911 square metres.

- 5.5. Under 3257/09 planning permission was granted in September, 2009 for modifications to the existing five storey plus two storey basement office building (Elm House). These modifications included the provision of a pedestrian entrance from Love Lane. The provision of a new double height lobby, the alterations to the existing pedestrian entrance at Clanwilliam Court and alterations to the façade and fire escapes together with the internal reconfiguration at ground floor level.
- 5.6. Under Reg. Ref. 2768/12 planning permission was granted for the redevelopment at Kestrel House, Clanwilliam Place for a new development comprising of a new seven storey over basement office building with a total gross floor area of 6,427 square metres (Velasco House).
- 5.7. Under 3338/16 planning permission was granted in October 2015 by Dublin City Council to alterations associated with the parent permission under Reg. Ref. 2768/12 (Velasco House).

6.0 **Grounds of Appeal**

- 6.1. The decision of Dublin City Council was the subject of five separate grounds of appeal. Many similar issues were raised in each of the appeals and for this reason the appeals are summarised under an issues-based group format set out below.
- 6.2. The third-party appellants are as follows:

Brian Higgins

Denise Holland

Patricia Brennan

Raymond McKiernan

Tom and John Brennan

All the above appellants are residents of Clanwilliam Court (Block 6).

6.3. Validity of Planning Application

- The site boundary outlined in red also includes the apartment complex (it is purported that the applicants only own eight out of the 20 apartments). This apartment complex should have been demarcated in blue as the owners of the apartment block have not given any permission for the inclusion of the apartment block within the application.
- Existing wayleaves which exist across the site were not shown in yellow on the site location map. This is a statutory requirement under the Planning and Development Regulations 2001.
- In question 7 of the planning application form, the applicant indicates that he is the full owner of the site whereas this is not in fact the case.
- Rights of way issues were raised in the observations submitted to the Planning Authority but were ignored in the planner's report. It is argued that this is not just a legal issue but is a breach of planning statutes which requires that such information be indicated on the drawings submitted with the application.
- The applicant has not received any consent to remove the podium access stairs from basement level. It is stated that this is an easement granted by deed to the management company and its members and therefore should not be included in any planning application. The requirement of this consent and any other consent should the development be granted planning permission, should be made a requirement of any condition.
- There is nothing on the planning application form which indicates that the apartment block is to be demolished as part of the proposal. However, the public notices pertaining to the planning application do not specifically state that the apartment block in question is to be retained.
- No reference is made in the public notices to the removal of trees in green areas along the Grand Canal/Clanwilliam Place.
- No mention was made of the site's proximity to St. Patrick Dunne's Hospital, a national monument or the Grand Canal Conservation Area in the public notices.

6.4. Overdevelopment of the Site

- It is stated that the existing apartment block has not been included in the overall gross floor area associated with the development for the purposes of calculating plot ratio. Therefore, the plot ratio should be calculated as 3.64 and not 3.47.
- Other appeals also suggest that for the purposes of calculating plot ratio part of the adjacent site under the applicant's ownership was also taken into consideration (granted planning permission under Reg. Ref. 301468-18) and this is considered to be both disingenuous and inappropriate.
- The excessive plot ratio it is argued is contrary to the Development Plan, and therefore by extension contrary to Section 15 of the Planning and Development Act 2000 which seeks to secure development plan objectives.

6.5. Reduction in the Statutory 4-week period in which to Lodge an Objection

- The planning application was determined on the 19th September yet observers were only issued with the notification of the decision on the 27th September and only received registered letters in respect of the decision on the 1st October, 2019. This resulted in the appellants receiving inadequate time to consider the planning decision and lodge an appeal.

6.6. Car Parking

- The owners of the apartment have not exceeded to any changes in the car parking layout or access arrangement such as that proposed under the development.
- The proposed development seeks to take away access to and from Mount Street during the construction phase and this is considered to be totally unacceptable.

6.7. Sunlight and Daylight Issues

- The overdevelopment of the site will reduce the courtyard to half its original size and will drastically reduce the sunlight penetration to the courtyard. This it is argued will seriously impact on the amenity of the residents in Block 6.

- The Clanwilliam Court block has been excluded from the desktop study with regard to daylight and sunlight penetration and this will impact on the appellant's rights to light. The appellants acknowledge that the proposal will have a material impact on natural lighting within the courtyard.
- It is requested that An Bord Pleanála carry out an independent light study estimating the probable daylight hours that will result in the courtyard.

6.8. Construction Issues

- The planning authority gave little consideration to the fact that the apartment block is located within the middle of the site and therefore will be located within a construction site for a significant period. This it is argued, will have a unacceptable impact on residential amenity throughout the construction period.
- Concerns are expressed that access to and from the apartment block could be curtailed and severely disrupted during the construction period.
- Documentation submitted with the application argued that the buildings on the subject site need to be demolished as they fail to meet current office accommodation requirements. Nevertheless, it is noted that the adjacent building at Marine House, Clanwilliam Court did not require demolition but merely required an extension and alterations. It is suggested that a similar approach could be taken in the case of the current application.
- Concerns are expressed with regard to the potential impacts arising from the construction period on the structural integrity of the apartment block due to excessive vibration during the construction activities.

6.9. Conditions

- It is requested that an independent noise and vibration monitoring programme be undertaken during the construction period in the case where planning permission is granted.
- It is argued that in the case where planning permission is granted, the hours of operation be restricted to 7 a.m. to 6 p.m. on weekdays and not at all on the weekends.

- There is no restriction in the planning conditions in relation to the operating hours of the offices, restaurant or gym.
- With regard to the cleaning of windows associated with the existing apartment block, there is no detail with regard to the frequency of the cleaning which would take place.
- It is argued that the residential owners and occupiers of the apartment block should have chance to review and comment on any construction management plan prepared in respect of the development.

6.10. Other Issues

- Concerns are expressed that the proposal will impact on many services that are located in the basement during the construction phase. These services include potential impact on phone line, electricity lines and water services.
- Concerns are expressed that the proposed bar and restaurant will give rise to anti-social behaviour and late-night noise.
- Wastewater calculations do not include wastewater from the residential block. This could exacerbate wastewater volumes that will enter the Council's drainage system.

7.0 Appeal Responses

7.1. Applicant's Response to the Grounds of Appeal

- 7.1.1. A response on behalf of the applicants was submitted by Brady Shipman and Martin Consultants. The response is outlined below.

In relation to the validity of the application the following is stated:

- With regard to the red line boundary it is stated that the applicant owns the commercial part of Block 6 at ground and podium level and at upper basement level. The red line as drawn outlines the extent of works which are proposed under Block 6. No works are proposed in areas not under the control of the applicant other than lands owned by Dublin City Council to which a letter of consent applies.

- All works to be carried out referred to within the red line are under the ownership of the applicant. The site location plan clearly states that the residential block is in partial ownership.
- With regard to the public notices it is stated that no development works are proposed to the apartment block itself other than underneath the apartment block at basement level.
- There is no requirement under the Planning Regulations to reference to removal of trees or green areas or to reference national monuments or proximity to conservation areas etc. in the public notices.
- With regard to the retention of the apartment block, it is stated that the application drawings clearly identify the retention of the apartment block and the application only proposes development works below the block.
- With regard to plot ratio, the response states that the plot ratio as indicated in the planning application correctly uses the gross floor area of the building divided by the site area to give a plot ratio of 3.3. As there are no changes proposed to Block 6, this floor area is not part of the new gross floor area and for this reason it was not included. There was no attempt to mislead the Planning Authority in this regard. The development plan also notes that higher plot ratios may be permitted in certain circumstances.
- With regard to fire/emergency escape routes, it is stated that the existing staircase to the podium area from the basement is to be replaced by a higher quality Building Regulation compliant staircase. The applicant is satisfied that the building regulations in this regard have been adequately complied with.
- With regard to access and easements, it is stated that during the redevelopment of Blocks 1, 2 and 5 access via the podium from Mount Street will not be available. Access for residents, emergency vehicles and deliveries will be maintained at all times along the western side of the block via Love Lane. It is also noted that as part of the permitted Marine House redevelopment a new and additional pedestrian access route will be provided from Clanwilliam Place. Once the first two phases are complete access across the newly revamped podium from Mount Street Lower will be put in place.

- Access to car parking spaces will be retained during the course of the construction works to be undertaken. The residents have no legal entitlement to access the car parking spaces through any specific or defined route within the car park. It is stated that the currently long and convoluted route to the spaces across the B2 basement has been significantly improved and shortened as part of the planning application. A secure access barrier has been proposed as part of the planning application which would provide a dedicated residential car parking area.
- With regard to access to the central podium car park, it is suggested that the proposal currently before the Board represents an improved access to the podium area when compared with the existing access. Details of the existing and proposed dimensions of the access are set out in the grounds of appeal.
- With regard to the removal of the residential amenity space along the canal, it is stated that this area forms an inherent part of the current built environment and that overall the public realm will be significantly enhanced in a manner befitting this prominent City Centre site on the Grand Canal.
- With regard to daylight and sunlight and right to light issues, it should be noted that the podium serves the entire complex and not just the residential building. Furthermore, the podium is not a garden or amenity area as defined in the BRE Guidelines and as such does not require an assessment for sunlight. Notwithstanding this, further information was submitted to the Council which assesses the sunlight received. The assessment illustrates that the podium access meets the BRE Guidelines for the 21st June but not the 21st March.
- The applicant does not accept that any of the apartments or the owners of management company have any purported right to light. This is not a matter for the Planning Authority to properly consider in the application for planning permission. From a planning perspective, the applicant has demonstrated that the proposed redevelopment is well within the planning guidelines with respect to daylight. The daylight analysis carried out as part of the application establishes that the proposed development taking account of the proposed

stepping back of the building would have no adverse impact on the amenity of residential accommodation at Block 6.

- The proposed leisure uses are predominantly located at the Lower Mount Street side of the development. It is considered that these spaces will be managed to ensure that no undue impact on adjacent residential units will occur. Likewise, the Town Hall (auditorium) space will be carefully managed. It will be used for business and corporate events for companies in the local area. The hours of any such book event will be restricted to between 7 a.m. and 11 p.m. Mondays to Saturdays.
- With regard to wastewater drainage issues, it is stated that the application submitted assesses the volumes of foul and surface water generated by the proposed development only, as is standard in any planning application. It is the responsibility of Irish Water/local authorities to determine the capacity of the network. Furthermore, it is noted that the foul and surface water volumes discharge into a combined line that falls eastwards down Mount Street Lower whereas the foul water generated from the residential block discharges into a private drain along Love Lane which connects into the combined line at Grand Canal Street.
- Working hours will be in accordance within the condition attached to Dublin City Council's notification to grant planning permission.
- The small increase in the development footprint of the building is considered appropriate and represents a more efficient use of this important city centre site.
- With regard to the refurbishment option as opposed to the redevelopment option, it is argued that existing Blocks 1, 2 and 5 could never be amalgamated successfully within a refurbishment option to produce an acceptable contemporary office floor layout. The same constraints do not arise in relation to the Marine House refurbishment granted under Reg. Ref. 301468.

On the basis of the above response it is requested that An Bord Pleanála uphold the decision of the Planning Authority and grant planning permission for the proposed development.

8.0 Development Plan Provision

- 8.1. The site is governed by the policies and provisions contained in the Dublin City Development Plan 2016 – 2022.
- 8.2. The subject site is zoned Z6 with the objective to provide for the creation and protection of enterprise and facilitate opportunity for employment creation. The subject site is also located partially within the Grand Canal Conservation Area and partially within a zone of archaeological constraint.
- 8.3. It is considered that Z6 lands constitute an important land bank for employment use in the city, which is strategically important to protect. The primary objective is to facilitate long-term economic development in the city region.
- 8.4. To create dynamic and sustainable employment areas. Any redevelopment proposals on Z6 lands should ensure that the employment element on site should be in excess of that on site prior to re-development in terms of the numbers employed and/or floor space.
- 8.5. Chapter 6 of the development plan relates to city economy and enterprise.
 - (i) Policy CEE1 seeks to (a) promote and enhance the role of Dublin as a national economic and driver of the economic recovery and growth with the city centre as its core economic generator.
 - (ii) (b) To promote and enhance the city's competitiveness and to address deficits, to improve the business environment so that existing jobs are supported and employment generated, and to be creative and practical in its responses to current economic challenges and opportunities.
 - (iii) Policy CEE2 seeks to recognise the crucial need for the planning and sustainable development system to be agile and responsive in the face of challenging and rapidly changing circumstances. Dublin City Council will promote sustainable development by balancing complex sense of economic environmental and social goals and planning decisions.
 - (iv) Policy CEE3 seeks to take a positive and proactive approach when considering the economic impact of major planning applications in order to

support economic development, enterprise and employment growth and also to deliver high quality outcomes.

(v) Policy CEE4 seeks (a) to promote and facilitate Dublin as a creative and innovative city that is globally competitive, internationally linked, attractive and open.

(b) To promote an internationalisation strategy building mutually beneficial, economic and other links with key cities globally to encourage investment in tourism in Dublin.

(c) To promote jobs which provide quality of life and allow workers to play a full social and economical role in the development of the city.

8.6. Section 6.5.2 of the development plan notes that a choice of good quality and cost competitive office and commercial space is critical in attracting investment, supporting enterprises and generating employment. There is a need to encourage the high-quality redevelopment of outdated office stock. Attracting headquarter type uses to the city is a key foreign direct investment strategy. However, there is limited supply of large floorplate offices outside of Docklands, Heuston and the suburbs. Sites of sufficient size to provide such floorplates are often found in regeneration areas.

8.7. Policy CEE11 seeks to promote and facilitate the supply of commercial space, where appropriate e.g. retail and office including larger floorplates and quanta suitable for indigenous FDIHQ - type uses, as a means of increasing choice and competitiveness, and encouraging indigenous and global HQs to locate in Dublin.

8.8. To consolidate employment provision in the city by incentivising and facilitating the high quality redevelopment of obsolete office stock in the city.

8.9. Chapter 16 of the development plan sets out details in relation to development standards. In relation to aspect natural light and ventilation, it states that daylight animates the interior and makes it attractive and interesting as well as providing light to work and read by. Good daylight and sunlight contribute to making a building energy efficient. It reduces the need for electronic lighting, while winter solar gain can reduce heating requirements. Development shall be guided by the principles of Site Layout Planning for Daylight and Sunlight, a Guide to Good Practice (BRE Report 2011).

- 8.10. In terms of building heights Policy SE16 seeks to recognise that Dublin City is fundamentally a low-rise city and that the intrinsic quality associated with this feature is protected while also recognising the potential and the need for taller buildings in a limited number of locations throughout the city. The subject site is located in an area where a building height of up to 28 metres is permissible for commercial use.
- 8.11. In terms of plot ratio, the indicative plot ratio for a Z6 zone is generally between 2 and 3. In terms of indicative site coverage the Z6 zoning objective permits an indicative site coverage of 60%.

9.0 EIAR Screening Determination

- 9.1. Appendix 1 of the planning report included an EIA screening report. It noted that the proposed application site area is 0.56 hectares and does not meet or exceed the specified thresholds set out in Part 1 of Schedule 5 of the Planning and Development Regulations 2000. Therefore, an EIA is not a mandatory requirement under this provision.
- 9.2. With regard to a subthreshold EIA Table 1.1 of the Screening Report assesses the characteristics of the proposed development and reasonably concludes in my opinion that the proposed development will not give rise to any significant effects on the environment having regard to its size, design and location. It is considered that any potential pollution can be avoided by appropriate mitigation and management techniques. The type and characteristics of potential impacts are also assessed in the screening report. These likewise are not considered to be significant taking account of the characteristics of the proposed development and its location within an urban environment. It is concluded therefore that there is no requirement for an environmental impact assessment of the proposed development.
- 9.3. I consider that the EIA Screening Report to be objective, robust and comprehensive. I would also agree with the conclusions that the size of the site falls considerably short of that for which a mandatory EIAR, or a sub-threshold EIA would be required. Furthermore the type and characteristics of potential impacts which could arise from the development would not have a significant environmental impact. I would therefore agree with the conclusions that there is requirement for an Environmental Impact Assessment of the proposed development.

10.0 Planning Assessment

I have read the entire contents of the file, visited the subject site and its surroundings and have had particular regard to the issues raised in the grounds of appeal and the applicant's response to these issues. I consider the pertinent issues in dealing with the current application and appeal before the Board are as follows:

- Principle of Development
- Validity of Application
- Overdevelopment of the Subject Site
- Car Parking and Access Issues
- Daylight and Sunlight Issues for the Podium/Courtyard Area
- Access and Car Parking Arrangements
- The Provision of a Bar and Restaurant Facility
- Drainage Issues
- Other Issues
- Conditions

10.1. Principle of Development

10.1.1. The subject site is governed by the Z6 zoning objective which seeks to provide for the creation and protection of enterprise and facilitate opportunities for employment creation. The provision of office development such as that proposed seeks to facilitate opportunities for employment creation within the city and therefore fully accords with the zoning objective. The development Z6 lands constitute an important landbank for employment use within the city. Of particular importance in the statement set out in the plan which states that in order to create dynamic and sustainable employment areas, any redevelopment proposals on Z6 lands should ensure that the employment element on site should be in excess of that on site prior to redevelopment in terms of numbers employed and/or floor space. The redevelopment of the site incorporating a higher quantum of development and increased floor space is fully in accordance with the development plan objective.

Office use within the canal ring is a permissible use under the lands use zoning objective.

- 10.1.2. Furthermore, there are a number of specific policy statements contained in the development plan which would support the redevelopment of the subject site at a higher density than currently exists. Policy CEE3 seeks to ensure that a positive and proactive approach when considering the economic impact of major planning applications in order to support economic development, enterprise and employment growth. The redevelopment of the subject site is fully in accordance with this policy provision.
- 10.1.3. Policy CEE11 seeks to promote and facilitate the supply of commercial space where appropriate including office space with larger floor plates and quanta suitable for indigenous and FDIHQ - type uses as a means of increasing choice and competitiveness and encouraging indigenous global HQs to locate in Dublin. The policy also seeks to consolidate employment provision in the city by incentivising and facilitating the high-quality redevelopment of obsolete office stock in the city. The existing office development on the subject site is c.45 to 50 years old and can be considered obsolete and therefore less suitable to accommodate and cater for contemporary indigenous and FDI offices within the city.
- 10.1.4. It is clear therefore that both the zoning objectives and specific policies and statements contained in the development plan would be fully supportive of the redevelopment of the subject site for more contemporary style office accommodation.
- 10.1.5. Furthermore, the most recently adopted National Planning Framework also highlights the need to develop brownfield urban sites at higher and more sustainable densities in order to create a more efficient use of land and ensure that more compact development occurs in urban areas. The principle benefits of higher density and more compact urban development particularly in relation to office development ensures that future development will result in reduced land take. More compact development will also utilise existing infrastructure, improve the viability of public transport and will reduce the need to travel long distances by ensuring that employment uses are concentrated in accessible locations within the city centre. National Policy Objective 6 seeks to regenerate and rejuvenate cities, towns and

villages of all types and scale by increasing residential population and employment activity and enhance levels of amenity and design quality in order to sustainably influence and support the surrounding area.

10.1.6. The redevelopment of the subject site to facilitate more up to date and greater employment opportunities would be fully in accordance with one of the main pillars of the National Planning Framework which seeks to develop infill sites in existing urban areas at higher densities.

10.1.7. The principle of the redevelopment of the subject site is fully in accordance with the with national and local policy aspirations with regard to providing higher density, contemporary office development on accessible sites within the city centre.

10.2. **Validity of Application**

10.2.1. The grounds of appeal raise a number of concerns in relation to the validity of the application submitted to the Planning Authority. These issues are addressed in turn below.

10.2.2. Boundary of the Application Site

It is suggested that the red line boundary which incorporates Block No. 6 is incorrect on the basis that Block No. 6 (residential block) does not form part of the planning application and that the applicant has only partial ownership in the residential block in question.

It is clear from the information submitted that there are works (as defined in Section 2 of the Act) proposed at the basement level beneath Block No. 6. The changes proposed include the provision of new bike store spaces beneath the footprint of the block together with the provision of new ESB substations, plant rooms and a security office. It is apparent therefore that works are to be carried out beneath the residential units in the upper floors of the blocks and for this reason it is both appropriate and necessary that the works to be undertaken are included within the red line boundary of the site (please refer to Drawings 1901-SCA-CW-B1-DR-A-1009 and 1039 for the comparison of the existing layout and proposed layout beneath Block 6).

10.2.3. Wayleaves and Rights of Way Issues

All the third-party appellants highlight that the drawings submitted with the planning application did not include details of existing wayleaves traversing the subject site.

There is a requirement under the Planning and Development Regulations, specifically Article 22(2)(b)(iii) that require as part of any planning application submitted that where wayleaves exist any such wayleaves should be indicated in yellow.

It appears that no details of any wayleaves are provided in the drawings submitted with the planning application. Notwithstanding this, details of alleged wayleaves traversing the site are indicated in a number of the third party appeals before the Board. This issue was not addressed in the appellant's response to the grounds of appeal nor in the solicitor's letter appended to the response to the grounds of appeal.

The requirement to indicate wayleaves in the documentation submitted is a statutory requirement under the legislation and this is clear and unambiguous. Failure to provide such information clearly contravenes the legislative requirements set out under the Regulations.

However, rather than refusing planning permission on this basis alone, I would recommend that the Board consider requesting the applicant to confirm whether or not any wayleaves exist on site. And, in the case that such wayleaves exist, the applicant to submit drawings indicating all wayleaves across the site prior to issuing any determination on the application. It may be also appropriate that any such drawings would also indicate details of any alleged right of ways for the purposes of completeness having regard to the fact that the absence of right of way details are also referred to in the grounds of appeal. In the interest of natural justice, it may also be appropriate to circulate any drawings depicting the wayleaves/rights of ways to the third party appellants in order to allow comments to be made on any drawings submitted.

I would however suggest that while there is a statutory obligation that all wayleaves be indicated on any drawings submitted with the planning application, the absence of such drawings does not in itself in my view constitute reasonable grounds for refusal. As would be the case with any perceived deficiencies in public notices, rather than refuse planning permission, it would be most appropriate to address this issue by requesting further information from the applicant before determining the appeal.

10.2.4. Ownership of the Site

I am satisfied that the applicant has sufficient legal interest in the lands in question to submit a planning application. While the applicant may not own all the lands which are the subject of the application it appears that (a) the company making the application has a letter of consent from Dublin City Council to carry out works on the pathway outside the appellant's control and (b) has sufficient legal interest to carry out works at basement level beneath Block 6. The applicant is not intending to carry out works within Block 6 on lands which are not under his control.

Furthermore, I would refer the Board to Section 34(13) of the Act which states that a person shall not be entitled solely by reason of a permission under this section to carry out the development. Therefore, it is open for the Board to grant planning permission for the proposed development without legally bestowing any rights on the applicant to carry out the development.

Despite what is suggested in the grounds of appeal, there is no proposal before the Board to demolish the existing residential block as part of the proposal. The public notice refer to the demolition of Elm House, Block 1, Clanwilliam Court and Clanwilliam House all of which are office buildings. There is no reference in the public notice to the demolition of the apartment block.

10.2.5. Removal of the Podium Access Stairs/Fire Escape

Concern is expressed in a number of appeals that the proposed development seeks to eliminate the only fire/emergency escape route from the basement. The applicant indicates in his response to the grounds of appeal that the existing staircase from the podium to the basement is to be replaced by a higher quality building compliant escape staircase and this is indicated on Drawings 1901-SCA-CW-B1-DR-A-1039 and 1040. The stairs in question will be required to comply with Part 3 of the Building Regulations. It is apparent therefore that it is not proposed to eliminate any fire escape access from the basement area to the podium. The applicant will be required to comply with any fire safety requirements set out in the Building Regulations.

10.2.6. Public Notices

One of the appellants suggest that the public notice should specifically refer to the fact that (a) trees and grass areas are to be removed and that (b) the site is located in close proximity to the Grand Canal Conservation Area, (c) the former St. Patrick Dunne's Hospital and (d) that the site is located adjacent to a national monument.

It is not a statutory requirement to refer to these issues in the public notices. I consider the nature and extent of the development has been adequately described in the public notices. Reference is made in the public notices to the demolition of buildings together with a gross floor area of the new development and the intended uses of the floorspace within the new buildings. Reference is made to the main ancillary works including access arrangements etc. It is not a requirement to fastidiously set out every single aspect of the proposed development or any special designations on adjacent sites. In a development as large as the one currently before the Board, it would be inappropriate and onerous to refer to all the minor works to be carried out as part of the proposed development. However, if the Board consider it either appropriate or necessary, it can always request that the applicant re-publish notices in accordance with the Board's requirements prior to determining any planning application.

I consider the notices to be adequate in informing the public as to the major characteristics and components of the proposed development in accordance with the requirements set out under the Regulations.

10.3. Overdevelopment of the Subject Site

- 10.3.1. Concern is expressed in the grounds of appeal in relation to the calculation of the plot ratio. The grounds of appeal suggest that the applicants have somewhat disingenuously underestimated the plot ratio by including a portion of the adjacent Marine House site for the purposes of calculating the plot ratio while other appellants suggest that the residential element extant on site was not included for the purposes of the calculation. The applicant in the response to the grounds of appeal states that the plot ratio was correctly calculated in the application as being 3.3. The appellants put forward arguments that the actual plot ratio ranges between 3.47 and 4.07.
- 10.3.2. The grounds of appeal go on to further argue that in contravening the plot ratio standards set out in the development plan the applicants by implication are contravening Section 15 of the Planning and Development Act which places a general duty on Planning Authorities to secure the objectives of the development plan.
- 10.3.3. Section 16.5 of the development plan sets out guidance in relation to plot ratios. In relation to the Z6 ratio an indicative plot ratio of 2 to 3 is considered acceptable. It is

clear from the table set out in the development plan that plot ratios are “indicative only” and are not mandatory limits. The plot ratio is a standard tool used to indicate as to what quantum of development might be appropriate for a particular site. It is guidance rather than a prescriptive mandatory standard which must be adhered in relation to every single application that comes before the planning authority.

10.3.4. In fact, the development plan states that a higher plot ratio may be permitted in certain circumstances such as:

- Adjoining major public transport termini and corridors where an appropriate mix of residential and commercial use is proposed.
- To facilitate a comprehensive redevelopment in need of urban renewal.
- To maintain existing streetscape profiles.
- Where the site already has the benefit of a higher plot ratio.

10.3.5. It is clear that most, if not all, of the qualifying criteria relating to higher plot ratios listed above is relevant to the subject site. The subject site is located within the canals with good public transport links including being located less than 500 metres from a commuter railway station.

10.3.6. Furthermore, the development plan also points out that in order to create dynamic and sustainable employment areas any redevelopment proposals on Z6 lands should ensure that the employment element on the site should be in excess of that on-site prior to redevelopment in terms of numbers employed and/or floor space. This would imply that a plot ratio higher than the indicative plot ratio set out in the development plan would be appropriate and countenanced in order to secure the wider objectives of the development plan. I reiterate also that the National Planning Framework seeks to ensure that the redevelopment of existing urban sites should incorporate a more sustainable quantum of development in order to ensure a higher density and more compact development.

10.3.7. On the basis of the above I would consider it inappropriate to refuse planning permission on the basis that the proposed development may contravene the indicative plot ratio standards set out in the development plan for the Z6 land use zoning objective.

10.4. **Car Parking and Access Issues**

10.4.1. Concerns were expressed that the proposed development alters the access arrangements and the layout of car parking associated with the residential block on site. The applicant in his response to the grounds of appeal states that the residential car parking spaces are assigned to each resident by way of a licence. Furthermore, it is stated that the residents have no legal entitlement to access the car parking spaces through any specified or designed route within the car park. It is further suggested that the parking layout at basement level under the current application before the Board is more direct and less convoluted than that which currently operates on site. The key issue in my opinion is to whether or not the residents have access to designated residential car parking spaces under the proposed development. It appears that each of the residents have retained the car parking space albeit in a new configuration. It appears that the applicant in this instance maintains legal title to the basement and lower basement level and therefore would appear to be within rights to carry out alterations to the layout of the car parking. I reiterate that car parking spaces are still available to the residents under the current application and this in my opinion is the critical issue in terms of determining the application. If any alterations to the car parking layout contravene license conditions associated with the existing car parking arrangements this is a legal matter between the developer and the residents of Block 6 but would not in my view constitute reasonable grounds for refusing planning permission.

10.4.2. In relation to access the access to the car park is to be retained at Love Lane.

10.5. **Daylight and Sunlight Issues for the Podium/Courtyard Area**

10.5.1. The quantum of development proposed is in excess of that currently on site. There was likely therefore to be a consequential impact in terms of sunlight penetration. However, I reiterate that national and local policy seeks to develop existing urban sites at higher density. Furthermore, the Z6 zoning provision seeks to ensure that the employment element on site should be in excess of that prior to the redevelopment in terms of numbers employed and/or office space. Strategically therefore it is appropriate that a higher level of floorspace would be provided on site as part of any proposed redevelopment. The overall podium area is to be produced by

approximately 6% according to the applicant's response to the grounds of appeal. However, the proportion of the podium area which is to remain uncovered and open directly to the sky is reduced by c.50%. There will therefore inevitably be a reduction in sunlight penetration.

- 10.5.2. There can be no doubt that the podium area provides a level of amenity for the residents of Block No. 6. However, the amenity value in my view is quite limited. The podium area forms part of a public thoroughfare with alleged rights of way and wayleaves traversing the site and offers little amenity in terms of hard and soft landscaping. The podium area is used by office worker of the contiguous office blocks and all the blokes look onto the podium. To suggest that the podium area represents a private amenity area solely or exclusively for the residents of No. 6 would be somewhat misleading. In this regard I would agree with the applicants that the space in question, while providing some level of amenity, cannot be compared with a private garden or private communal amenity area exclusively to serve the residents of the residential block. Therefore, the space in question could not be classed as a garden or private amenity space to which the BRE standards could be applied.
- 10.5.3. The Board in my view are required to balance the wider strategic goals of providing a quantum of development in accordance with the Z6 zoning objective and the wider strategic objectives set out in strategic documents such as National Planning Framework against the potential impacts arising from the diminution in amenity which would be suffered by the residents of Block 6.
- 10.5.4. Any diminution in amenity should in my view also be balanced against the significant planning gain to be derived from the upgrading of the public realm through the incorporation of more aesthetically pleasing contemporary architecture which will enhance the streetscape and will in my view improve the overall visual amenities of the area when compared with the existing architectural style and configuration of buildings on site.
- 10.5.5. The reduction in sunlight penetration is in my view an inevitable consequence of the wider strategic planning gains to be derived from developing city centre urban sites with good public transport links at higher densities.

10.5.6. Concerns were also expressed that the redevelopment of the site will create a 'tunnelling' effect from the main entrance to the podium along the Mount Street elevation. Again, it is acknowledged that sunlight and daylight penetration at the Mount Street entrance will be reduced as a result of the higher quantum of development proposed. This however in my view will be somewhat compensated by the overall improvement in the urban aesthetic resulting from the redevelopment of the subject site. The proposed opening into the podium area from the Mount Street elevation comprises of a double height entrance (as opposed to the existing single storey concrete slab over the entrance which currently exists on site). This will represent a significant improvement in my view to the overall entrance design over that which currently exists on site. In terms of overall amenity, therefore I am satisfied that the proposed alterations will not significantly diminish or compromise the Mount Street entrance to any significant extent.

10.6. The Provision of a Bar and Restaurant Facility

10.6.1. The provision of a bar and restaurant and gym at ground floor and basement level will in my view create greater animation along the street frontage than that which currently exists. This will help enliven and will positively contribute to the public realm along the Mount Street/Clanwilliam Place elevation. The provision of such uses are permissible under the zoning objective which permits both restaurant and recreational uses.

10.6.2. The Town Hall/auditorium space proposed at ground floor level would also be permitted as the Z6 use zoning objective permits conference style uses. The conference use will be used for business and corporate events for offices and companies in the local area. All activities will be confined to within the boundary of the conference centre and will be restricted between the hours of 7 a.m. to 11 p.m.

10.6.3. With regard to the bar and restaurant use, this premises is only accessible from Lower Mount Street and not from Love Lane. The bar/restaurant facility is located c.60 metres from the ground floor of the residential block on site. The separation distances between the two uses would ensure that there would be very little impact arising from a bar/restaurant facility in terms of noise etc. Block No. 6 is located within an urban area where the likelihood of mixed uses in the form of residential, commercial and hospitality type land uses occurring in close proximity is high. The

juxtaposition of such uses within city centre areas is therefore no unusual or indeed incompatible.

10.7. Drainage Issues

10.7.1. Concerns are expressed in one of the appeals submitted that foul effluent generated by the residential block was not taken into consideration when calculating the overall drainage requirements associated with the development. The existing residential development in Block 6 is in situ and is not proposed to be altered as a result of the proposed development. It is reasonable that the planning application submitted would assess the foul effluent generated by the proposed development only. Furthermore, Dublin City Council's Drainage Department have assessed the proposed development and while a number of concerns were expressed at the initial stage, none of these concerns related to the capacity of the foul sewer network to accommodate the additional foul effluent generated by the proposed development. Finally in relation to this matter, Irish Water will be required to adjudicate on the capacity of the network and the applicant will be required to enter into connection agreements with Irish Water with regard to water supply and foul sewage infrastructure relating to the development.

10.8. Other Issues

With regard to the refurbishment of the building in question as opposed to demolition and rebuild there are numerous policies contained in the Dublin City Development Plan which are referred to above which seeks to ensure that office availability in Dublin meets the requirements for the new knowledge and servicing economy that is required in order to attract companies to the city. Section 6.5.2 of the development plan specifically states that *"there is a need to encourage high quality redevelopment of outdated office stock"*. The existing office development on site is c.50 years old and furthermore the applicant's response to the grounds of appeal notes that the existing blocks on site incorporate conflicting orientations which could never be amalgamated successfully as a refurbishment option in order to produce an acceptable contemporary office floor layout. For the above reasons I consider it appropriate that the subject site be redeveloped as opposed to be refurbished. Also, there can be little doubt that the redevelopment of the subject site provides better

opportunities to improve and enhance the urban aesthetic of the area and create a higher quality of public realm and civic design in the wider area.

10.9. Conditions

- 10.9.1. In relation to work hours, it is recommended that construction activity will only take place between Monday and Fridays and not at all on Saturdays and Sundays. It is standard practice that both Dublin City Council and An Bord Pleanála also permit construction activities for a half day on Saturdays. In the interest of consistency, I recommend that a condition be attached permitted construction activity for five and a half days a week (i.e. a half day on Saturday). The provision of an additional half day on a Saturday should contribute towards reducing the overall time construction phase which would have positive impacts for the amenities of residents in the vicinity of the site.
- 10.9.2. In relation to street cleaning, I would recommend that the Board include a general standard condition in relation to street cleaning.
- 10.9.3. Details of any car parking management plan and construction management plan should be included in any Board decision to grant planning permission. Standard conditions in this regard can be attached.

11.0 Conclusions and Recommendation

Arising from my assessment above, I recommend that the Board uphold the decision of the planning authority and grant planning permission for the proposed development in accordance with the plans and particulars lodged. However prior to issuing a determination the Board may wish to request further information with regard to wayleaves traversing the site, in order to ensure that the application submitted fully accords with the statutory requirements set out in the in Article 22 (b) (iii) of the Regulations.

12.0 Appropriate Assessment

I note that a Stage 1 Appropriate Assessment Screening Report was submitted with the application which reasonably concluded in my opinion that based on the best scientific evidence available it can clearly be demonstrated that no elements of the

project will result in any impact on the integrity or qualifying interests/special conservation interests of any European sites in the wider vicinity either on its own or in combination with other plans and projects. It is therefore reasonable to conclude that on the basis of the information on the file, which I consider adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans and projects would not be likely to have a significant effect on any designated European site in the vicinity in view of the site's conservation objectives and therefore a Stage 2 Appropriate Assessment and the submission of an NIS is not therefore required.

13.0 Decision

Grant planning permission for the proposed development in accordance with the reasons and considerations set out below.

14.0 Reasons and Considerations

Having regard to the Z6 zoning pertaining to the site, including the statement in Section 14.8.6 of the plan that any development proposals on Z6 lands should ensure that the employment element on site should be in excess of that on site prior to the redevelopment in terms of numbers employed and/or office space, it is considered that subject to conditions set out below, the proposed development would not seriously injure the amenities of the area and would generally improve the public realm, would not be prejudicial to public health and would generally be acceptable in terms of traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

15.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application as amended by further information received on the 23rd day of August, 2019, 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 the 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 including samples of all materials, colours and textures of all the external finishes to the proposed building shall be submitted to and agreed in writing with the planning authority prior to the commencement of development.

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

3. A landscaping scheme for open space along Clanwilliam Place, Lower Mount Street and the sedum roof shall be submitted to and agreed in writing with the planning authority prior to the commencement of development. The scheme shall include the following:
 - (a) Details of all proposed hard surface finishes including samples of proposed paving slabs, materials for footpaths, kerbing and road surfaces within and surrounding the development.
 - (b) The proposed locations of trees and other landscaping planting in the development including details of the proposed species and settings.
 - (c) Details of proposed street furniture including bollards, lighting fixtures, seating etc. The boundary treatment and landscaping shall be carried out in accordance with an agreed scheme submitted and agreed in writing with the planning authority.

Reason: In the interest of visual amenity.

4. Details of the proposed landscaping, both hard and soft to be incorporated into the podium area including details of lighting, seating, planting and paviour design shall be agreed in writing with the planning authority prior to the commencement of development.

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

5. The site development works and construction works shall be carried out in such a manner to ensure that the adjoining streets are kept clear of debris, soil and other material and if the need arises for such cleaning works to be carried out on the adjoining public road, the said cleaning works shall be carried out at the developer's expense.

Reason: To ensure adjoining roadways are kept clean in a safe condition during the construction works in the interest of orderly development.

6. The developer shall on a periodic basis, details of which are to be agreed with the planning authority, carry out window cleaning on the windows of all external elevations of Block 6 Clanwilliam Court.

Reason: To protect the amenities of residents living in Clanwilliam Court.

7. 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 residential amenity.

8. No additional development, other than that shown in the drawings shall take place above roof level including the provision of lift motors, air handling equipment, storage tanks, ducts or other external plant other than those shown on the drawings submitted unless authorised by a prior grant of planning permission.

Reason: To safeguard the amenities of surrounding occupiers and the visual amenities of the area.

9. No signage, advertising structures/advertisements, security shutters, or other projecting elements, including flagpoles, shall be erected within the site and adjoining lands under the control of the applicant unless authorised by a further grant of planning permission.

Reason: To protect the visual amenities of the area.

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

Reason: In the interest of sustainable waste management.

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

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

12. The following requirements for the Transportation and Planning Division shall be complied with:
 - (a) Prior to the commencement of development and on the appointment of a main contractor, a construction management plan shall be submitted to the planning authority for written agreement. This plan shall provide details of the intended construction practice for the development, including traffic routing, parking and management, hour of working, noise management measures and all site disposal of construction and demolition waste.
 - (b) A car parking management plan shall be prepared for the site and submitted for the written agreement of the planning authority. This shall indicate how many spaces will be associated with the development and will be segregated from spaces serving the wider Clanwilliam Court development and how to use the car parking will be continually managed. Car parking spaces shall be permanently allocated to the development use and shall not be sold, rented or otherwise sublet or leased to other parties.
 - (c) Cycle parking to development plan standards shall be provided throughout the development. This shall be secure, conveniently located, sheltered and well lit. Shower and changing facilities will also be provided as part of the development.

Reason: In the interests of providing sustainable transport infrastructure.

13. Prior to the opening 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 office park. Details to 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: In the interest of encouraging the use of sustainable modes of transport.

14. Any alterations to the proposed road network including the provision of set down/loading areas, changes in the surface materials and changes to the road markings shall be agreed in writing with the planning authority prior to the commencement of development. These works shall be carried out to Dublin City Council requirements at the developer's expense.

Reason: In the interest of Road and Traffic Safety

15. Details of any materials proposed in public areas should be in accordance with the document entitled "Construction Standards for Roads and Street Works in Dublin City Council and agreed in detail with the Road Maintenance Division". Any costs incurred by Dublin City Council including any repairs to the public road and services necessary as a result of the development shall be at the expense of the developer.

Reason: To ensure a satisfactory standard of development.

16. The developer shall be obliged to comply with the requirements set out in the Code of Practice.

Reason: To ensure a satisfactory standard of development.

17. Water supply and drainage arrangements including the attenuation of surface water shall be agreed in writing with the planning authority prior to the commencement of development.

Reason: In the interest of orderly development.

18. The applicant or developer shall enter into a water and/wastewater connection agreement with Irish Water prior to the commencement of development.

Reason: To ensure an appropriate standard of development.

19. 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.

20. The developer shall pay to the planning authority a financial contribution of €606,432 (six hundred and six thousand four hundred and thirty-two euro) 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. The application of any indexation required by this condition 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.

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.

Paul Caprani,
Senior Planning Inspector

29th January, 2020.