



An
Bord
Pleanála

Inspector's Report ABP 306728-20

Development

Amendments to permitted Reg.
Ref.:2234/18 (ABP-301468-18).
Amendments include: additional office
space, reconfiguration of internal and
basement layouts and amendments to
the elevations, finishes and
landscaping.

Location

Site at Marine House, Clanwilliam
Court, Clanwilliam Place, Dublin 2 D02
FY24

Planning Authority

Dublin City Council.

Planning Authority Reg. Ref.

4527/19

Applicant

Hibernia Reit Ltd.

Type of Application

Permission

Planning Authority Decision

Grant Permission with Conditions

Type of Appeal

Third Party

Appellants

Tom and John Kelly

Observer(s)

None

Date of Site Inspection

13th July 2020

Inspector

Brendan Coyne

1.0 Site Location and Description

1.1. The site is located on the north-western side of Clanwilliam Place and comprises a six-storey office building over a two-storey underground basement, known as 'Marine House'. The building forms part of the Clanwilliam Court complex which comprises six office buildings and one residential apartment block arranged around a central linear courtyard. The complex is bound by Lower Grand Canal Street to the north-east, Lower Mount Street to the south-west and Love Lane to the north-west. The appeal site Marine House occupies a central position in the complex with its front elevation facing the Grand Canal, located opposite. The apartment block (five storeys) is located to the rear of Marine House and is separated from the it by the courtyard. Marine House is adjoined to its north-eastern side by an office block known as 'Velasco' and to the south-west by an office block known as 'Block 2 Clanwilliam House'. The arrangement of Marine House is rectangular in plan with a six-storey return of accommodation to the rear. The front external treatment of the building comprises horizontal bands of red brick panels and window fenestration. Mature trees and planters are located in the grass margin to the front of the building. The 2-storey basement is accessed via Love Lane.

2.0 Proposed Development

2.1. Permission sought for amendments to the permitted refurbishment and extension of Marine House Building, as permitted on appeal under P.A. Ref. 2234/18 & ABP Ref. 301468-18. The proposed amendments include the following:

- Provision of additional office accommodation (132 sq.m.) with an external courtyard onto Clanwilliam Place, at Basement Level 1. Reconfiguration of the internal core layout would result in a minor increase in overall floorspace of 70 sq.m. The total additional floorspace as a result of these amendments would be 202 sq.m.
- Reconfiguration of the layout of Basement Level 1 would result in a reduction of 10 no. car parking spaces (from 30 to 20) and the provision of an additional 16 no. bike parking spaces and a new bin store.

- Reduction of 8 no. car parking spaces on Basement Level 2 (from 45 to 37).
- Minor demolition works to facilitate amendments at basement levels.
- Modifications to the permitted bike ramp on Clanwilliam Place involving the replacement of the permitted 1.1m high stone walls with high quality bronze painted open balustrades.
- Amendments to the permitted elevations on the front / south-eastern elevation, at ground floor level, including the replacement of permitted 4 no. anodised aluminium overclad columns with 7 no. anodised aluminium overclad columns.
- Addition of 2 no. sliding doors to the front / south-eastern elevation at level 06 and the provision of a new door to the front elevation at ground floor level, providing dedicated residential access through to Block 6.
- Proposed addition of upper spandrel panels added to the curtain walling system on the proposed north-western, south-western and north-eastern elevations.
- Provision of a new maintenance only access door at Level 06 on both the north-western and south-western elevations.
- Addition of 1.1m high glazed balustrade guardrail to the maintenance terrace on the permitted level 06 on the north-west elevation.
- Amendment to the permitted landscaping layout onto Clanwilliam Place to include for amendments to permitted access stair arrangements and the relocation of permitted accessible platform lift balustrade to the sunken courtyard.
- Alterations to the existing central access podium, to the rear of Marine House, to provide for a new basement ventilation.
- Amendments to the roof level to include additional sedum area adjacent to the plant zone and revisions to the permitted drainage layout, including relocation attenuation tank.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. Dublin City Council granted permission for the proposed development subject to 9 no. Conditions. Noted Conditions include:

Condition No. 4 The terms and conditions of the permission for the original development, issued under P.A. Ref. 2234/18 and ABP Ref. PL29S.301468 shall be fully complied with, except where modified by this permission.

Condition No. 5 (a) The site and building works required to implement the development shall only be carried out between the hours of: Mondays to Fridays - 7.00am to 6.00pm Saturday - 8.00 a.m. to 2.00pm Sundays and Public Holidays - No activity on site.

Condition No. 7 (a) During the construction and demolition phases, the proposed development shall comply with British Standard 5228 'Noise Control on Construction and open sites Part 1. Code of practice for basic information and procedures for noise control.' (b) Noise levels from the proposed development shall not be so loud, so continuous, so repeated, of such duration or pitch or occurring at such times as to give reasonable cause for annoyance to a person in any premises in the neighbourhood or to a person lawfully using any public place. The rated noise levels from the site (defined as LAeg 1 hour) shall not exceed the background noise level (as defined in B.S 4142:2014 by 10 dB or more.

3.2. Planning Authority Reports

3.2.1. Planning Report

- 3.2.2. Basis for the Planning Authority's decision. Includes:

- The amendments include the provision of additional office accommodation of 132 sq.m. with associated external courtyard onto Clanwilliam Place at Basement Level 1. This is considered acceptable.

- Light to the proposed office would be gained via the creation of the courtyard onto Clanwilliam Place. This courtyard would replace a proposed planter at street level. This is considered an acceptable intervention into the public realm of Clanwilliam Place and is in keeping with the sunken area in front of Velasco House.
- The proposal provides design amendments to the cycle ramp. The shower and welfare facilities associated with the cycle parking on Basement Level 1 have been relocated to a more convenient space beside the cycle parking at lower ground floor level. The Transportation Planning Section welcome these changes and the increase in the provision of cycle parking.
- The proposed modifications to the permitted bike ramp with the replacement of the 1.1m high stone walls with bronze painted open balustrades are considered acceptable. They will create a more open and vibrant street frontage onto Clanwilliam Street.
- The proposed amendments to the permitted elevations including the replacement of permitted 4 no. anodised aluminium overclad columns with 7 no. anodised aluminium overclad columns to the front elevation are considered visually acceptable as they will tie in with the frames of the curtain walling system on the upper floors.
- The addition of upper spandrel panels to the curtain walling system on the proposed north-west, south-west and north-east elevations are considered acceptable.
- The provision of new maintenance only access doors at Level 06 on the north-west and south-west elevations and the proposed addition of 1.1m high glazed guardrail to the maintenance terrace on permitted level 06 on the north-west elevation are considered acceptable.
- The proposed amendments to the landscaping layout onto Clanwilliam Place, including amendments to the permitted stair arrangements and the relocation of the permitted accessible platform lift will contribute positively to the urban realm.
- The proposed alterations to the existing central access podium, to the rear of Marine House, to provide for a new basement ventilation and amendments to the roof level including an additional sedum area adjacent to the plant zone and

revisions to the permitted drainage, including the relocation of the attenuation tank are considered acceptable.

3.3. Other Technical Reports

Transportation Planning Division: No objection subject to Conditions.

Drainage Division: No objection subject to Conditions.

Archaeology Division: No objection subject to Conditions.

3.4. Prescribed Bodies

None

4.0 Planning History

4.1.1. Subject Site:

P.A. Ref. 2234/18 / ABP Ref. 301468-18 Permission GRANTED in December 2018 for an extension (1,056m² GFA) and alterations to Marine House Building comprising the following;

- The removal and replacement of all existing façade treatments;
- Construction of a 3.5 metre extension to the south-eastern elevation of the building with a new fully glazed façade;
- Demolition of existing plant at sixth floor level and the construction of a new set back office floor;
- Reconfiguration of internal layout (including removal of own-door offices to create open plan office space at each floor level and provision of a shared centralised lobby space accessed from an enlarged entrance on Clanwilliam Place at ground floor level);
- Provision of a new pedestrian route on the north-eastern side of the building for a dedicated secure access to existing residential block to the rear;
- New landscape treatment onto Clanwilliam Place including the provision of a dedicated cycle ramp into the existing basement and a new disabled lift to ground floor level;

- Reconfiguration of existing two-level basement underneath Marine House to include minor extension south-eastwards to accommodate upgraded and additional plant areas and reconfiguration of existing car parking spaces, new cycle storage and associated cycle facilities;
- All other associated and ancillary development and site works above and below ground on a site of 0.17 hectares at Marine House, Clanwilliam Court, Clanwilliam Place, Dublin.

4.1.1. Relevant Application on adjoining buildings within Clanwilliam Court and a section of the subject site at its south-western corner.

4.1.2. P.A. Ref. 3159/19 / ABP Ref. PL29S.305675 Permission GRANTED by Dublin City Council and CURRENTLY ON THIRD PARTY APPEAL for development on a site of 0.54 ha at Clanwilliam Court, Clanwilliam Place and Lower Mount Street, Dublin 2. The proposed development is described as follows;

4.1.3. The demolition of the existing Elm House (D02 A344), Block 1, Clanwilliam Court (D02 CF97) and Clanwilliam House (D02 CV61) office buildings and the construction of a commercial office building ranging in height from 4 storeys to 7 storeys plus roof plant. The total gross floor area of this building will be circa 18,629 sq.m (including floorspace at -1). The ground floor includes a double height office entrance and foyer, a bar/restaurant unit of 154 sq.m (with space at basement -1 of 324 sq.m). Associated Townhall space at 350 sq.m to be office and corporate meeting & events space for use of Hibernia REIT tenants and other businesses and a gym entrance of 59 sq.m (with gym at basement -1 of 413 sq.m). The development includes for external terraces at Basement -1 on the south-east elevation, at ground floor on north-west elevation, at first floor level on internal south-east elevation, at fourth floor on north-east elevation and north west elevation, at fifth floor on north-east elevation and northwest and south-west elevations, at sixth floor on north-east elevation and south-east elevation Access to the two level basement will be via the existing ramp accessed from Love Lane, basement -2 contains 42 no. car parking spaces, 4 no. motorbike parking spaces and associated plant and basement -1 contains 384 no. cycle spaces (including 12 visitor spaces at ground level) and associated shower & toilet facilities, plant area. Cycle access to the basement will be via a dedicated access controlled cycle ramp accessed

from Clanwilliam Place and from the existing basement entrance on Love Lane. The development will also include for upgrading of the central podium access courtyard area accessed from Lower Mount Street via a double height covered walkway including proposed hard and soft landscaping features. The development also includes for upgrades to the public realm treatment of Love Lane and associated surrounding street landscaping. The proposed development also includes for the provision of green roofs; plant at roof level; PV panels, signage; new ESB substations onto Love Lane; associated site servicing (foul and surface water drainage and water supply and all other associated site excavation and site development works above and below ground.

5.0 Policy and Context

5.1. Development Plan

Dublin City Council Development Plan 2016-2022 is the statutory plan for the area.

Zoning: The site is located in an area zoned objective 'Z6 – Employment/Enterprise' which seeks 'To provide for the creation and protection of enterprise and facilitate opportunities for employment creation'.

Zone of Archaeological Interest: The north-western section of the site is located within the Zone of Archaeological Interest of Recorded Monument DU018-052, which is listed on the Record of Monuments and Places and classified as a 'Grave Slab'.

Conservation Area: The site is located within a Conservation Area.

The following relevant policies, objectives and standards in the Development Plan are noted:

Policy SC25: To promote development which incorporates exemplary standards of high quality, sustainable and inclusive urban design, urban form and architecture befitting the city's environment and heritage and its diverse range of locally distinctive neighbourhoods, such that they positively contribute to the city's built and natural

environments. This relates to the design quality of general development across the city, with the aim of achieving excellence in the ordinary, and which includes the creation of new landmarks and public spaces where appropriate.

Policy CEE11: To promote and facilitate the supply of commercial space, where appropriate, e.g. retail and office including larger floorplates and quanta suitable for indigenous and FDI HQ-type uses, as a means of increasing choice and competitiveness, and encouraging indigenous and global HQs to locate in Dublin; to consolidate employment provision in the city by incentivising and facilitating the high-quality re-development of obsolete office stock in the city.

Section 11.1.5.6 Conservation Area – Policy Application

Policy CHC4: To protect the special interest and character of all Dublin's Conservation Areas. Development within or affecting a conservation area must contribute positively to its character and distinctiveness, and take opportunities to protect and enhance the character and appearance of the area and its setting, wherever possible...

Enhancement opportunities may include:

1. Replacement or improvement of any building, feature or element which detracts from the character of the area or its setting...
4. Contemporary architecture of exceptional design quality, which is in harmony with the Conservation Area.

Policy CHC9 To protect and preserve National Monuments.

1. To protect archaeological material in situ by ensuring that only minimal impact on archaeological layers is allowed, by way of the re-use of buildings, light buildings, foundation design or the omission of basements in the Zones of Archaeological Interest.

2. That where preservation in situ is not feasible, sites of archaeological interest shall be subject to 'preservation by record' according to best practice in advance of re-development.
3. That sites within Zones of Archaeological Interest will be subject to consultation with the City Archaeologist and archaeological assessment prior to a planning application being lodged.
4. That the National Monuments Service will be consulted in assessing proposals for development which relate to Monuments and Zones of Archaeological Interest...

Chapter 16 Development Standards – relevant provisions include:

Section 16.2.2.3 Alterations and Extensions

Section 16.3 Landscaping

Section 16.10.20 Development on Archaeological Sites and in Zones of Archaeological Interest

Section 16.38 Car Parking Standards

Section 16.39 Cycle Parking

Section 16.39.4 Shower and Changing Facilities

5.2. **Natural Heritage Designations**

- 5.2.1. The site is located c. 2km to the west of the South Dublin Bay SAC (Site Code: 004015) and SAC (Site Code: 000210) and South Dublin Bay and River Tolka Estuary SPA (Site Code: 004024).

5.3. **EIA Screening**

- 5.3.1. Notwithstanding the proximity of the proposed development to the South Dublin Bay SAC and South Dublin Bay and River Tolka Estuary SPA, the nature and small scale of the proposed development would not result in a 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.

6.0 The Appeal

6.1. Grounds of Appeal

A third-party appeal was received from Tom and John Kelly, who resides at No.2 Clanwilliam Court, Mount Street Lower, which is the apartment block No.6 to the rear / north of Marine House within the Clanwilliam Court Complex. The main grounds of appeal are summarised under the headings below;

6.1.1. Inadequacies in the Plans and Particulars submitted

- The Site Location Map submitted does not show wayleaves coloured in yellow, as required under SI600. No reference is made to existing wayleaves or easements.
- The main access to the apartment block is via the courtyard, onto Mount Street Lower. Wayleaves include not only the ground floor courtyard but extend to the green areas along Clanwilliam Place and the carpark at basement levels 1 and 2.
- Block Nos. 1, 2 and 5 are held by the Applicant. These are not outlined in blue on the Site Plan submitted.
- The Applicant has a legal interest in the apartment Block No. 6. This is not shown and distinguished by an alternative colour.
- The Site Layout Plan does not indicate the location of the site notice location and does not show the existing tree stands to the front of Marine House.
- It is difficult to distinguish what the proposed amendments and floor area extensions are. They are not highlighted or distinguished from the permitted plans.
- There is confusion with regard the subject application and the Applicant's other current application for development at Block Nos. 1, 2 and 5 under P.A. Ref. 3159.19. The area of the subject site includes the podium which has been included in the adjoining application under P.A. Ref. 3159/19.
- No mention was given to the proximity of a National Monument, Sir Patrick Dun's Hospital or the Grand Canal Conservation Area.

- The application form describes the proposed amendments as being at Basement level 1, when they also affect Basement level 2.
- No mention was given in the newspaper and site notice of the removal of trees and green area along the Grand Canal.
- No explanation was given why the Site Notices are in yellow.

6.1.2. **Impact on Residential Amenity**

- The Planning Authority gave no consideration to residents in the adjacent apartment block.
- Concern expressed with regards vibration.
- Works will affect resident's access to the apartment block from Mount Street via the courtyard. Access arrangements with residents have not been made.
- Works will affect resident's access and use of parking spaces and fire escape from the basement.
- Works will affect emergency access.
- The proposal will reduce the area of open space in the central courtyard and remove residential amenity space along the canal.
- Concerns expressed with regards the open vent to the basement car park in the courtyard. This ventilation is for a basement plant. Concerns expressed with regards noise emanating from this plant at all hours and its impact on the residential amenity of residents in the apartment block.
- Access arrangements with residents have not been made.
- Given the scale of the proposed development and its proximity to a residential block, a full structural impact dilapidation assessment is required by a suitably qualified surveyor prior to commencement of construction, monitored during construction and surveyed post construction.
- The Appellants request that in the event of a grant of permission a Condition be imposed restricting the operating hours from 8.00am to 18.00pm Monday to Friday only.

- The Planning Authority did not impose a Condition requiring a Construction Management Plan.

6.1.3. **Consent for Application**

- The apartment block is located within the site as outlined in blue. The Appellants and other apartment owners have not given consent for the application for the proposed development.

6.1.4. **Pre-Planning Consultation**

- The owners of the apartment block were not consulted about the application.
- The pre-planning consultation for the original Marine House application was not published or available for review at the time of the application.

6.2. **Applicant Response**

6.2.1. The response received from Brady Shipman Martin Planning Consultants, representing the Applicant, is summarised as follows;

- Planning Permission was granted by Dublin City Council in March 2018 (P.A. Ref. 2234/18) and subsequently upheld on appeal by An Bord Pleanála in December 2018 (ABP Ref. 301468-18) for the external and internal refurbishment and extension of the existing Marine House Building.
- Following receipt of the planning permission, the applicant progressed through further design of the building and sought permission for minor amendments.
- It is submitted that the amendments to the permitted scheme are minor in nature and do not fundamentally alter the intent of the permitted development or works already permitted.
- The third-party appeal with regards these amendments primarily relate to the development as a whole, which is already permitted, and not to the specifics of the proposed amendments.
- The concerns of the appellants are acknowledged, but it is submitted that these issues have been considered by Dublin City Council and An Bord Pleanála in the original application.

- The proposed refurbishment and extension of Marine House, now subject to a final grant of permission, and as now proposed to be amended, is fully consistent with the provisions of the Dublin City Development Plan and the proper planning and sustainable development of the area. It represents a significant component in the revitalisation of the city block and is a positive intervention in the urban environment of the Grand Canal and City Centre generally.

6.3. **Planning Authority Response**

- 6.3.1. The Planning Authority confirms that the reasoning of its decision is set out in the Planner's Report and that all relevant issues were addressed in this report.

6.4. **Observations**

None received

7.0 **Assessment**

- 7.1. I have reviewed the proposed development and the correspondence on the file. I note the Planning Authority is satisfied that the proposed development is visually acceptable and accords with relevant policies and objectives of the Dublin City Development Plan 2016-2022. I am satisfied that the layout and design of the proposed amendments would integrate fully with the permitted development and would not detract from the character and visual amenity of the surrounding streetscape and Conservation area. Having regard to the Grounds of Appeal, the main issues raised can be considered under the following headings;

- Inadequacies in Plans and Particulars submitted
- Impact on Residential Amenity
- Consent for Application
- Pre-Planning Consultation

These are addressed below.

7.2. Inadequacies in Plans and Particulars submitted

7.2.1. The appellants question the validity of the application and object to the proposed development on the grounds that there are irregularities on the plans and particulars submitted with the application, as detailed in Section 6.1.1 above. These can be summarised as follows;

- The Plans submitted do not detail wayleaves in the Clanwilliam Court Complex coloured in yellow, as required under the Planning and Development Regulations 2001 (as amended). These wayleaves include the central courtyard, basement levels and green areas along Clanwilliam Place.
- Block Nos. 1, 2 and 5, which are within the ownership of the Applicant, are not outlined in blue on the Site Plan submitted.
- The apartment block, of which the Applicant has a legal interest in, is not distinguished by an alternative colour on the Site Location Plan.
- The Site Layout Plan does not indicate the location of the site notice location and does not show the existing tree stands to the front of Marine House.
- It is difficult to distinguish what the proposed amendments are from the permitted development. They are not highlighted or distinguished on the plans submitted.
- There is confusion with regard the proposed development under the subject application and the Applicant's other current application for development at Block Nos. 1, 2 and 5 under P.A. Ref. 3159.19.
- No reference was made to the proximity of the site to a National Monument, Sir Patrick Dun's Hospital or the Grand Canal Conservation Area.
- The application form does not describe the proposed amendments at Basement level 2.
- No mention was given in the newspaper and site notice to the removal of trees and green area to the front of Marine House.
- No explanation was given as to why the Site Notices are in yellow.

7.2.2. Having regard to the above, I note that the Site Location Map submitted details that Block Nos. 1, 2 and 5 are located within the land under the ownership of the applicant, as outlined in Blue. The residential apartment Block No. 6 is also located within the

site as outlined in blue and is detailed as being in the partial ownership of the applicant. As set out in Section 3.8 of the Development Management Guidelines (2007), it is not open to Planning Authorities to require particular colours on maps, plans, etc. where this is not required by the Regulations. Thus, it is not a requirement for the apartment block to be distinguished with an alternative colour, as put forward by the Appellants.

- 7.2.3. The Site Location Map details the location of the Site Notice to the front of Marine House, along Clanwilliam Place. The existing permitted and proposed Ground Floor Plans (Level 00) detail the location of trees and the planter area to the front of Marine House, along Clanwilliam Place. I am satisfied that the Plans submitted clearly identify these items in accordance with the requirements of Article 22 of the Planning and Development Regulations 2001 (as amended). The trees along the public footpath to the front of Marine House are to be retained. I note that Condition No. 6 of the permitted development under ABP Ref. 301468-18 requires the developer to submit a landscaping scheme for the open space along Clanwilliam Place and the sedum roof for the written agreement of the Planning Authority, prior to commencement of development.
- 7.2.4. The Site Notice describes that proposed works will involve a reduction of 8 no. car parking spaces on Basement Level 2 (from 45 to 37) and minor additional demolition works to facilitate amendments at basement level. I am satisfied that the applicant has adequately described proposed work at Basement Level 2.
- 7.2.5. The Site Notice is printed on a yellow background, in accordance with the requirements of the Planning and Development Regulations 2001 (as amended), whereby the applicant has made a separate application under P.A. Ref. 3159/19 & ABP Ref. PL29S.305675 (lodged on the 31st May 2019) within 6 months of the subject application (lodged on the 25th November 2019).
- 7.2.6. With regards the proximity of the site to a Recorded Monument, I note that the original development permitted under P.A. Ref. 2234/18 & ABP Ref. 301468-18 has a Condition (No. 7) requiring the developer to facilitate the preservation, recording and protection of archaeological materials or features that may exist within the site and to employ a suitably-qualified archaeologist who shall monitor all site investigations and other excavation works, and other requirements. Under the subject application, the Planning Authority imposed a Condition requiring that the terms and conditions of the

permission for the original development, issued under P.A. Ref. 2234/18 and ABP Ref/ PL29S.301468 be fully complied with, except where modified by this permission. I am satisfied that this Condition would conserve the archaeological heritage of the site and secure the preservation and protection of any remains that may exist within the site.

7.2.7. The Appellants object to the proposed development on the ground that the plans submitted do not detail the wayleaves in the Clanwilliam Court Complex coloured in yellow. This is a requirement of Article 22(2)(b)(iii) of the Planning and Development Regulations 2001 (as amended). In the grounds of appeal, the appellants have submitted a map showing wayleaves coloured in yellow. I note however that the appellants have not submitted legal documentation confirming these wayleaves. Notwithstanding this, it is my view that this ground of appeal is a validation issue which is the function of the Planning Authority. Furthermore, Section 5.13 of the Development Management Guidelines (2007) refers to 'Issues relating to title to land' and states that the planning system is not designed as a mechanism for resolving disputes about title to or rights over land and that these are ultimately matters for resolution in the Courts. The Guidelines advise that where there is doubt in relation to the legal title of the applicant, the Planning Authority may decide to grant permission, however a grant of permission is the subject of Section 34(13) of the Planning and Development Act 2000 (as amended) which states that 'a person is not entitled solely by reason of permission to carry out any development'. The proposed development is seeking amendments to development granted permission on appeal under ABP Ref. 301468-18. The principal and substantive merits of the development were assessed under this permission. I consider it inappropriate, therefore, to refuse permission for the proposed amendments to the permitted development on these grounds.

7.3. Impact on Residential Amenity

7.3.1. The Appellants object to the proposed development on the grounds that it will impact on the residential amenity of the occupants in the apartment block No. 6, as detailed in Section 6.1.2 above. Particular concerns relate to the following;

- Vibration.
- Access to the apartment block from Mount Street via the courtyard.
- Access and use of parking spaces and fire escape from the basement.

- Works will affect emergency access.
- The proposal will reduce the area of open space in the central courtyard and remove residential amenity space along the canal.
- Noise from the plant in the basement via the vent in the courtyard.
- A structural impact dilapidation assessment is required.
- Hours of construction.
- The Planning Authority did not impose a Condition requiring a Construction Management Plan.

7.3.2. Having regard to the original development permitted on appeal under ABP Ref. 301468-18, I note that Condition No. 3 requires the Applicant to submit for the written agreement of the Planning Authority prior to commencement of development, a Construction Management Plan detailing (inter alia);

(h) alternative arrangements to be put in place for pedestrians and vehicles in the case of the closure of any public road or footpath during the course of site development works;

(i) provision of parking for existing properties during the construction period;

(j) details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels;

It is my view that the requirements of this Condition would adequately address the Appellants concerns regarding noise, vibration, vehicular and pedestrian access and parking. Concerns regarding structural stability and fire safety are controlled under separate Building Regulations.

7.3.3. With regards Hours of Construction, I note that the original development permitted on appeal under ABP Ref. 301468-18 did not impose a Condition restricting hours of construction. I note however that under the subject application, the Planning Authority imposed a Condition (No. 5) requiring that site and building works required to implement the development shall only be carried out between the hours of Mondays to Fridays - 7.00am to 6.00pm, Saturday - 8.00 a.m. to 2.00pm and that on Sundays and Public Holidays no activity shall be carried out on site. In concession to its proximity to the residential apartment block I consider the hours of construction on Mondays to Friday should be restricted from 8.00am to 6.00pm. These hours of

construction would protect the residential amenity of residents in the apartment block and surrounding area.

7.3.4. With regards Noise, I note that the Planning Authority imposed a Condition (No. 7) requiring that (a) during the construction and demolition phases, the proposed development shall comply with British Standard 5228 and (b) noise levels from the proposed development shall not be so loud, so continuous, so repeated, of such duration or pitch or occurring at such times as to give reasonable cause for annoyance to a person in any premises in the neighbourhood or to a person lawfully using any public place. I am satisfied that such a Condition (amended as appropriate) would ensure that the construction and operation of the proposed development would not cause noise nuisance to the residents of the apartment block and surrounding area.

7.3.5. With regards the Appellants concern regarding loss of amenity space within the central courtyard and along Clanwilliam Place, I note that the floor area of the proposed vent grill at 26 sq.m. would not significantly reduce the area of amenity space within the central courtyard. The site is located within close proximity of the Grand Canal and walking distance of Merrion Square which provide a high level of amenity space for the surrounding area. While design details of the proposed vent have not been submitted, I consider that this issue can be dealt with by way of Condition. It is my view that the replacement of the planter area to the front of Marine House with an external courtyard at basement level would enhance the amenity of the employees of the building and would not detract from the character and visual amenity of the surrounding streetscape and Conservation area. On this basis, I recommend that the appeal should not be upheld in relation to these issues.

7.4. Consent for Application

7.4.1. The Appellants object to the proposed development on the ground that the apartment block is located within the site as outlined in blue and that the Appellants and other apartment owners within this block have not given consent for the application for the proposed development.

7.4.2. The Applicant has detailed on the application form submitted that they have a freehold legal interest in Marine House and detail on the Site Location Map that they have legal ownership of the site as outlined in blue, with partial ownership of the apartment block

No. 6. In the absence of evidence to demonstrate otherwise, I am satisfied that the applicant is the owner of Marine House and does not require consent from any other landowner of this property. As detailed above, the planning system is not designed as a mechanism for resolving disputes about title to or rights over land and that these are ultimately matters for resolution in the Courts. Any grant of permission is the subject of Section 34(13) of the Planning and Development Act 2000 (as amended) which states that 'a person is not entitled solely by reason of permission to carry out any development'. I recommend, therefore, that this ground of appeal should not be upheld.

7.5. Pre-Planning Consultation

7.5.1. The Appellants object to the proposed development on the ground that the owners of the apartment block No. 6 were not consulted about the application.

7.5.2. It is not a statutory requirement under the Planning Act and Regulations to hold specific consultation with adjacent landowners. The Applicant has fully complied with Articles 18 and 19 of the Planning and Development Regulations 2001 (as amended) which requires the publication of a newspaper notice and the erection of a site notice to inform the public of the proposed development and alert them as to its nature and extent. Third parties could examine the file in detail at the Planning Authority's office or their website and, if they so wish, lodge a submission or objection. The Appellants made a submission objecting to the proposed development under the subject application. On this basis, I recommend that this ground of appeal should not be upheld.

7.6. Screening for Appropriate Assessment

7.6.1. Having regard to the nature and scale of the proposed development, to the location of the site within a fully serviced urban environment, and to the separation distance and absence of a clear direct pathway to any European site, no Appropriate Assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

8.0 Recommendation

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

9.0 Reasons and Considerations

Having regard to the provision of the Dublin City Development Plan 2016-2022, the planning history of the site and the nature and scale of the proposed amendments to the permitted development, the pattern of development in the area and the information submitted in relation to the proposed development, it is considered that subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential or visual amenity of the area and would not have an adverse effect on the character and setting of the conservation area or endanger public safety by reason of traffic hazard. 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.	Apart from the amendments authorised by this permission, the proposed development shall strictly comply with the terms and conditions of the

	<p>previous grant of planning permission on appeal for the development on site under Planning Authority Reference No. 2234/18 & An Bord Pleanála Reference No. 301468-18.</p> <p>Reason: In the interest of clarity and the proper planning and sustainable development of the area.</p>
3.	<p>Prior to commencement of development, the developer shall submit for the written agreement of the Planning Authority, details of the proposed vent to the basement car park in the central courtyard.</p> <p>Reason: In the interest of clarity and amenity.</p>
4.	<p>Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.</p> <p>Reason: In order to safeguard the residential amenities of property in the vicinity.</p>
5.	<p>(a) During the construction and demolition phases, the proposed development shall comply with British Standard BS 5228 – 1: 2009: Code of Practice for Noise and Vibration Control on Construction and Open Sites: Noise.</p> <p>(b) During the operational phase of the proposed development, the noise level arising from the development, as measured at the nearest dwelling and nearest noise sensitive location shall not exceed:-</p> <p>(i) An Leq,1h value of 55 dB(A) during the period 0800 to 2200 hours from Monday to Saturday inclusive.</p> <p>(ii) An Leq,15 min value of 45 dB(A) at any other time. The noise at such time shall not contain a tonal component.</p>

	<p>At no time shall the noise generated on site result in an increase in noise level of more than 10 dB(A) above background levels at the boundary of the site.</p> <p>(c) All sound measurement shall be carried out in accordance with ISO Recommendation 1996-2:2007: Acoustics - Description and Measurement of Environmental Noise.</p> <p>Reason: To protect the amenities of property in the vicinity of the site.</p>
6.	<p>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.</p> <p>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.</p>

Brendan Coyne
 Planning Inspector

15th July 2020

