



An
Bord
Pleanála

Inspector's Report ABP307493-20

Development	Demolition of building and construction of a 5 to 8 storey 278 bedroom hotel building.
Location	26-27 Arran Street East, 26-31, 32 Arran Street East and Little Mary Street, Dublin 7.
Planning Authority	Dublin City Council.
Planning Authority Reg. Ref.	4179/19.
Applicant	Creekdale Limited.
Type of Application	Permission.
Planning Authority Decision	Grant.
Type of Appeal	Third Party -v- Grant.
Appellant(s)	Seamus Duignan.
Observer(s)	None.
Date of Site Inspection	7 th September, 2020.
Inspector	Paul Caprani.

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1.0 Introduction

ABP307493-20 relates to a third-party appeal against the decision of Dublin City Council to issue notification to grant planning permission for the demolition of existing fruit and vegetable warehouse buildings and the construction of a 5 to 8 storey 278 bedroom hotel fronting onto Arran Street East and Little Mary Street in Dublin City Centre. The grounds of appeal were submitted by the owner and occupier of the Hacienda Bar located on the corner of Arran Street and Little Mary Street. The grounds of appeal argue that the proposed development by virtue of its height and scale would be out of character with the area, would adversely impact on the visual and residential amenities of occupants in the vicinity.

2.0 Site Location and Description

- 2.1. The appeal site is located in the north inner city to the west of Capel Street in the vicinity of the traditional fruit and vegetable market area of the city. The subject site incorporates warehouse buildings, some of which have office overhead and front onto Arran Street East along the western boundary of the site and Little Mary Street along the northern boundary of the site. The site does not include No. 15 Little Mary Street a building which occupies the plot to the immediate north-west of the site and has frontage onto Arran Street East and Little Mary Street. This building is a three storey structure which accommodates a bar at ground street level (the Hacienda Club) and two floors of residential development above. This building is occupied by the 3rd party appellants.
- 2.2. The site itself comprises of a number of separate buildings all of which appear to be either vacant or currently used as wholesale fruit and vegetable distribution centres. The buildings are 2/3 storey with the ground floor accommodating large floor to ceiling heights for storage of fruit and vegetables and the upper floors exclusively used for office and storage accommodation. The wholesale storage areas incorporate a number of fridges and mezzanine as well as ancillary rooms at ground floor level. There are no openings from the subject site on the north elevation onto Little Mary Street. All access to and from the buildings in question are via large roller

shutter entrances onto Arran Street. The area of roadway contiguous to the Arran Street elevation comprises of loading bays. Arran Street is a one-way northbound road.

- 2.3. In terms of surrounding land uses, the Ormond Street Fruit and Vegetable Market occupies the adjacent block to the west between St. Michans Street and Arran Street East. This building has been the subject of a change of use under the provisions of Part 8 to accommodate restaurant and café use (see planning history below). The block to the immediate north of the site on Little Mary Street is currently being redeveloped. Lands to the east of the site comprise of backlands in yards associated with buildings fronting onto Capel Street and Little Mary Street. The Luas Red Line runs in an east/west direction along Mary's Abbey to the south of the site.

3.0 Proposed Development

- 3.1. Planning permission is sought for the demolition of the existing buildings on site and the construction of a new 278 bedroomed hotel over basement rising from 5 to 8 stores in height. The 5 storey element will face onto Little Mary Street to the north while the 8 storey element with a setback top storey will front onto Arran Street East. The hotel building will have an area of 9,614.3 square metres. The proposed building is to cover the entirety of the site. The basement area occupies approximately a third of the footprint of the site and is to accommodate plant and maintenance areas as well as storage areas for housekeeping, cleaning and laundry.
- 3.2. At ground floor level it is proposed to provide the main reception, bar and restaurant area. A new access will be provided onto Little Mary Street and a number of accesses will be provided along the Arran Street East elevation. The ground floor will also accommodate two separate restaurants/retail areas fronting onto Arran Street East. Additional plant areas together with bicycle storage and refuse storage is to be located at the southern end of the building facing onto Arran Street. Public access to the main lobby area will be available from both Little Mary Street and Arran Street.
- 3.3. The first, second and third floors are identical in layout and comprise exclusively of hotel bedrooms and housekeeping areas. Three separate lightwells are to be located in the rear of the hotel adjacent to the eastern boundary to provide natural light to the bedrooms to the rear of the building.

- 3.4. The fourth floor also comprises exclusively of hotel bedrooms with ancillary and service accommodation together with a terraced area facing directly onto Little Mary Street. The fifth and sixth floors are restricted to the Arran Street elevation and likewise comprise of hotel bedroom accommodation. The seventh floor is setback slightly from the main Arran Street elevation.
- 3.5. The building is to rise to a parapet height of 26.95 metres. It is to incorporate a select brick finish with an extensive glazed curtain walling. At ground floor level it is proposed to incorporate grey limestone panelling around the extensive glazed elevation at first floor level. The upper recessed floor also comprises of grey limestone cladding. The Little Mary Street elevation is similar with the upper floor incorporating the glazed curtain wall cladding. The Little Mary Street elevation rises to a height of 18.025 metres.

4.0 **Planning Authority's Decision**

4.1. **Decision**

- 4.1.1. Dublin City Council issued notification to grant planning permission for the proposed development subject to 20 standard conditions. The conditions required alterations and further details to be submitted in relation to the external finishes and also further details in relation to the nature and use of the independent ground floor retail units.

4.2. **Documentation Submitted with the Planning Application**

- 4.2.1. The planning application was lodged on 10th October, 2019 and included the following documentation:
- Site notice, newspaper notice, planning application form, planning fee, and two letters of consent from site owners. A covering letter was also submitted prepared by John Spain and Associates. It details the additional documentation submitted with the application which is briefly summarised below.
- 4.2.2. A Planning Report prepared by John Spain and Associates. It sets out details of the site location and description, the relevant planning history pertaining to the site (see separate section below), details of the pre-planning consultation as well as a detailed development description.

- 4.2.3. Section 7 sets out the relevant national and regional planning policy context and reference is made to the National Planning Framework, the Regional Spatial and Economic Strategy for the Eastern and Midland Region, the Greater Dublin Area Transportation Strategy and the Urban Development and Building Height Guidelines. The planning report also assesses the proposal in the context of the Dublin City Development Plan 2016 – 2022 and sets out justification for a hotel use at this location. The report sets out details of the urban form and architecture which informed the design and also assesses the proposal in the context of the relevant site development standards set out in the development plan with reference to building height, car and bicycle parking, urban renewal, archaeology and visual impact. The report concludes that a hotel use at this location is an appropriate use and consistent with the zoning objective relating to the site. It is also argued that the development will deliver significant improvements in terms of character and appearance of the area and is fully compliant with relevant national, regional and local planning policy.
- 4.2.4. A Travel Plan was also submitted by Waterman Moylan Consulting Engineers. It sets out details of an overall strategy for a mobility management plan and sets out specific measures in order to improve and encourage a modal split towards public transport, cycling and walking.
- 4.2.5. A series of Photomontages prepared by Digital Dimensions were also submitted showing existing and proposed visualisations of the site and its surroundings.
- 4.2.6. An Architectural Design Statement prepared by John Fleming Architects was also submitted. It sets out details of the site analysis including details of the existing building heights, transportation links, planning history, site context, site conditions etc. It also sets out the strategy which informed the overall design. It also provides details of the hotel operator (Ruby Hotels) which have hotel developments in London, Germany, Austria and Switzerland. A detailed schedule of accommodation is also provided within the submission.
- 4.2.7. An Engineering Assessment Report by Waterman Moylan was submitted. It provides details in relation to the foul water network, the surface water network, the water supply and the road and transportation network.

- 4.2.8. A Flood Risk Assessment was also submitted by Waterman Moylan Consulting Engineers. It assesses the potential flood risk from tidal/fluvial/pluvial groundwater and human/mechanical error relating to the site. The residual risk is categorised as negligible to low.
- 4.2.9. A Construction and Demolition Waste Management Plan was also submitted prepared by AWN Consulting. It provides details of the demolition waste generation and the construction waste generation. It also provides details of the demolition procedures, the record keeping, the waste audit procedure and check for hazardous waste etc.
- 4.2.10. An Archaeology and Cultural Heritage Report was prepared by Courtney Deering. It proposes preservation by record and preservation in situ in the case where archaeological material is discovered. The archaeological excavation will be carried out by a licenced archaeologist.
- 4.2.11. A Landscape and Visual Impact Assessment was prepared by Kennett Consulting. It concludes that the proposal constitutes a high standard of architecture which will enliven the adjacent streets and will make a strong positive contribution to local identity and place making. It is concluded therefore that the proposed development will have no adverse impacts on local landscape character but will instead make a positive contribution to the emerging contemporary character and identity of the local area.
- 4.2.12. A Preliminary Noise Assessment assesses the potential noise generation from the mechanical service plant noise, entertainment noise and patron noise. It is concluded that the noise emissions from the development are not expected to result in an adverse impact on neighbouring residential dwellings once appropriate mitigation measures are considered during the design phase.
- 4.2.13. A report by AWN Consulting on Operational Waste Management sets out details of the estimated waste arisings from the proposal and provides details of the waste storage and collection procedures for the hotel and the restaurant units. It is stated that with the implementation of the operational waste management plan, high levels of recycling, reuse and recovery will occur on site and a high level of waste segregation at source will also take place.

- 4.2.14. A Screening Report for Appropriate Assessment compiled by Open Field Ecological Services concludes that significant effects to Natura 2000 sites and not likely to arise either alone or in combination with other plans or projects.
- 4.2.15. A Bat Assessment from Wildlife Surveys states that on foot of a survey bats were not found to be roosting within the buildings in question. A single common pipistrelle bat fed for a short time over the roof where vegetation was growing. A number of mitigation measures are proposed in order to protect any potential impacts on bats.
- 4.2.16. A potential Daylight and Sunlight Impact Assessment was prepared by Digital Dimensions. It concludes that there will be some reduction in amenity to surrounding residents. Given the inner city nature of the site it is stated that impact on surrounding buildings will be less noticeable. There are a small number of windows in the small roof-top amenity area, above the Hacienda Bar that are reduced below the guidelines and standards, but overall the impact is described as being minor and adverse. In terms of the proposed hotel bedrooms, all bedrooms will exceed the recommendations of the BRE Guidelines.
- 4.2.17. An Energy Statement was submitted by Waterman Moylan Engineers. It sets out details of compliance with Building Regulations and details of heat sources and renewable energy options together with options for the building fabric. The final section of the report sets out the proposed solutions for the hotel. It is stated that the cost benefit analysis of all available solutions will be carried out to ensure that the most appropriate combination of technology and renewable energy systems are employed.
- 4.2.18. A Service Management Strategy is also submitted. It notes that serviced routes to and from the development are well established. It is stated that inbound delivery services will arrive from Ormond Quay Upper either turning directly into Arran Street or west along Mary's Lane towards Church Street. It is stated that the existing service movements on Arran Street East which amounts to approximately 40 movements a day will cease and will be replaced by servicing for the hotel, restaurants and retail which will amount to 28 to 35 movements per day.
- 4.2.19. Finally, a Draft Construction Management Plan is submitted which provides details of the draft construction methodology, construction access arrangements and the

Construction Environmental Management Plan to be incorporated in the execution of the development.

4.3. **Planning Authority's Assessment**

- 4.3.1. A report from the Engineering Department Drainage Division recommended that permission should be withheld until satisfactory information is submitted with regard to an assessment of the basement area on groundwater land stability, ground movement and impact on adjacent properties. The developer shall also submit a revised site specific flood risk assessment for the proposed development.
- 4.3.2. A report from Transport Infrastructure Ireland recommends a number of conditions to be attached to any grant of planning permission. One of these conditions request that Dublin City Council if appropriate and not implement a Section 49 levy scheme for light rail.
- 4.3.3. A report from An Taisce suggest that the overall design is not appropriate and will detract from the fruit and vegetable market building adjacent.
- 4.3.4. A report from the Transportation Planning Division notes a number of discrepancies in the drawing submitted and requests further clarification in respect of same.
- 4.3.5. A report from the City Archaeologist notes that the subject site is located within a Zone of Archaeological Constraint for Recorded Monuments and is within the known environment of the medieval abbey of St. Mary and cartographic sources suggest that the remains of late 17th/18th century development may survive at subsurface. As such, the subject site is of archaeological potential and sensitivity. It is therefore recommended that a detailed archaeological condition be attached in the case that planning permission is granted.
- 4.3.6. The Planning Report sets out details of the site description, the proposed development, the planning history and the various observations contained on file. The interdepartmental reports prepared by the Drainage Division, Transportation Division and City Archaeologist are also noted as are the submissions from Transport Infrastructure Ireland and An Taisce. Reference is made to national planning policy as it relates to the site. The assessment notes that the proposed use is permissible in principle under the zoning objective and is considered to have a positive use in terms of contributing to the vibrancy and vitality of the area. Given the

central location of the subject site combined with numerous public transport facilities in close proximity it is considered that the subject site is underutilised and therefore a higher plot ratio is deemed to be acceptable. It is recommended that additional information be requested in relation to daylight, sunlight and overshadowing particularly in terms of the impact of the proposal on the adjoining Hacienda Bar. It is concluded therefore that while the development is acceptable in principle further information is required in relation to a number of issues and these include:

- Concerns regarding the overall height, scale and massing of the proposed development particular along Arran Street East.
- The applicant is requested to submit further information in relation to daylight, sunlight and overshadowing of adjoining properties including the Hacienda Bar and Arran House.
- Further information in relation to the concerns of the Drainage Department.
- And clarification of information in respect of the impact of the proposed development on the public footpath together with details of the ownership boundary between the public footpath and the subject site.

4.4. Further Information Submission

4.4.1. Further information was submitted on behalf of the applicant by John Spain and Associates on 23rd March, 2020.

4.4.2. In relation to Item 1 it is stated that the elevation is being revised to provide increased setbacks from the Hacienda to the west and this has resulted in a stepped built form moving from two storeys to five storeys. This is also reflected through a change in building materials including brick and metal cladding finishes. The design response to Arran Street East has been carefully considered to break up the perceived massing of the building and to create distinct 'bay elements' of the building that have been continued at the top level which is now divided into four distinct elements. These distinct elements comprise of metal cladding and glass finishes providing obvious breaks in the top level of the building. Revised drawings and photomontages are submitted with the further information submission.

- 4.4.3. Further information is also submitted providing clarified of the proposed relationship between the application site and the adjoining property located to the east on Capel Street. The response also notes that subsequent to the additional information request on this item An Bord Pleanála refused planning permission for the construction of a hotel on Capel Street.
- 4.4.4. In relation to daylight, sunlight and overshadowing concerns, an addendum sunlight/daylight report was submitted which includes a further assessment on the Hacienda and Arran House as requested. It is stated that the proposed amendments particularly on the Little Mary Street elevation will improve daylight access to the upper levels of the Hacienda Bar. However, any further setbacks from the Hacienda would not allow for any form of feasible development on the subject site. Furthermore, having regard to national and local policy in relation to Higher Density Sustainable Development and the New Building Height Guidelines for Planning Authorities any impact on this small amenity area must be assessed in the context of these wider objectives.
- 4.4.5. A preliminary basement impact assessment was also submitted which assessed the proposal in terms of:
- Groundwater flow levels and flooding.
 - Land stability.
 - Ground movement and impact on adjacent properties.
 - Surface water flow and flooding.
 - Construction activity and temporary works.
- 4.4.6. The report identifies and assesses the potential impacts on these issues and the report concludes that further site investigations are required in relation to the impact of the basement and it is intended that these investigations will be completed prior to the commencement of construction on site.
- 4.4.7. A revised site specific flood risk assessment was also prepared by Waterman Moylan Consulting Engineers and submitted as a separate report. It likewise concludes that the residual risk of flooding from any source at this site is low.

4.4.8. Further details are provided in relation to ownership boundary and the proposal has been amended to ensure that no element of the building overhangs the public footpath. All external doors will open inwards with the exception of fire escape doors. Further details of a minimum 1.8 metre wide footpath along the length of the entire subject site on the Arran Street elevation is also submitted.

4.5. **Further Assessment by Planning Authority**

4.5.1. A further planning report notes that the additional information has been assessed by both the Transport Planning Department and the Drainage Division and both have expressed no objection to the proposed development subject to standard conditions. The Planning Department's response notes the additional alterations to the layout and finishes of the proposed development and considers that the scale of the proposal is acceptable and would not seriously injure the amenities of neighbouring properties which surround the application site. The proposal therefore would result in the redevelopment of an existing underused property to provide a high quality modern hotel which is in accordance with the general policies and objectives set out in the development plan. Accordingly, Dublin City Council issued notification to grant planning permission for the proposed development.

5.0 **Planning History**

- 5.1. There appears to be no recent planning history associated with the subject site. However, there are a number of relevant planning permissions on adjacent sites.
- 5.2. Under Reg. Ref. 3462/14 the Council approved under Part 8 works at the wholesale fruit and vegetable market which permitted a change of use from wholesale trading to wholesale retail trading together with café and restaurant uses at the wholesale fruit and vegetable market bounded by Arran Street, Chancery Street and St. Michans Street (protected structure).
- 5.3. Under Reg. Ref. 3629/17 and An Bord Pleanála Ref. PL29S.300987 the Board upheld on appeal the decision of Dublin City Council to grant planning permission for a mixed use building that ranges in height from three to seven storeys above basement level comprising of an aparthotel to provide 343 aparthotel units, on the

plot to the immediate north of the site and is currently being constructed. Planning permission was granted on 29th January, 2018 subject to 23 conditions.

- 5.4. Under Reg. Ref. 3572/18 permission was granted for the development of a hotel and a 0.21 hectare site at 23 Mary Street on the corner of Mary Street and Capel Street to the north-east of the site. The proposals included a change of use from existing commercial office storage and workshop use to a hotel use including 98 bedrooms, bar, restaurant and function room ranging from one to eight storeys. Under ABP Reg. Ref. 305177 An Bord Pleanála refused planning permission for a new hotel to the immediate east of the site. Planning permission was refused on design grounds.

6.0 Grounds of Appeal

- 6.1. The decision was appealed by Seamus Duignin of the Hacienda Bar 15 to 16 Little Mary Street and 34 Arran Street East. The grounds of appeal are outlined below:

- The proposed development would result in a building that will tower above the three storey Hacienda Bar on both Mary Street and Arran Street East. From an architectural perspective, the proposal has no sense of proportionality or transition and constitutes a mismatch of buildings resulting in a visual eyesore. The proposed development is overbearing, out of scale and out of character.
- The building on which the Hacienda is located is also the appellant's family home. It is genuinely concerning to think of the disturbance in terms of noise and dust, trucks and cranes to the appellant's daily life as a result of the size and scale of the development. The appellants would have to endure these extreme living conditions for between 2 and 3 years. The fugitive dust during the development could have significant health consequences on the appellant's family.
- The appellant's building which is c.160 years old would require significant structural support and the appellant expresses concerns in relation to the safety of his family and customers during the construction works. Concerns are expressed that the construction could result in adverse impacts on the structural integrity of the appellant's building.

- The proposed development could represent significant adverse health and safety issues for the patrons of the appellant's pub. It is suggested that the size and scale of the works to be undertaken would result in the appellant's business being unlikely to continue and this would necessitate the offer of recompense for loss of earnings. The appellant has had no reassurance from the developers in this regard.
- The proposed development would have an unacceptable impact in terms of overshadowing and loss of sunlight. The appellant's premises has six windows and one glass door facing in the direction of the proposed development and this will be adversely affected by the proposed development. It is suggested that the proposal represents an incomplete assessment of the impact arising in terms of overshadowing and sunlight penetration which will adversely impact on the appellant's amenity.
- While the appellant fully supports the regeneration of the inner city, there is concern that the density of 278 hotel rooms in such a small space will create a noisy and transient atmosphere around the appellant's home.

7.0 Appeal Responses

7.1. Planning Authority's Response

7.2. The Planning Authority have not submitted a response to the grounds of appeal.

7.3. Response on behalf of the Appellant

7.3.1. A response was received by John Spain and Associates. By way of introduction it is stated that the proposal has been the subject of considerations and iterations. And is fully compliant with the provisions of the development plan. The response goes on to set out details of the site's location and context and also makes reference to the planning history surrounding the site. Reference is made to Board decisions in relation to adjacent developments which highlight the policies contained in the National Planning Framework and the area's strategic advantages in offering good quality tourist accommodation at sustainable densities. Reference is also made to the improvement works and change of use envisaged for the fruit and vegetable market adjacent to the subject site. The area provides significant opportunities to

provide a high quality hotel development including ground floor retail and restaurant uses on the subject site. The response goes onto describe the proposed development and amendments to the proposed development incorporated at further information stage in the response to the grounds of appeal. Reference is also made to the relevant National Planning Policy highlighting various policy statements in the National Planning Framework which would support the development proposed.

- 7.3.2. In terms of visual impact, it is stated that the proposed development strikes an appropriate balance between safeguarding the urban character and visual amenity of the local area alongside the introduction of a new development with a scale, character and quality that enriches the urban landscape.¹
- 7.3.3. It is argued that the building is reconfigured so as to present a well-proportioned façade both Arran Street and Little Mary Street. The proposed building fronting onto Little Mary Street has been carefully reconfigured and designed to step down towards the Hacienda Bar.
- 7.3.4. The appellant's concern in relation to the proposed height and the argument that it is out of character with the surrounding area is not accepted by the applicant. It is argued that the area is in transition and there have been recently approved schemes of seven and eight storeys in height and these are illustrated in a diagram in the response to the grounds of appeal. Furthermore, it is stated that the three to eight storey building fully accords with the maximum height standards set out in the development plan and will contribute to the comprehensive redevelopment of the fruit market area.
- 7.3.5. With regard to construction and demolition management, the response refers the Board to a separate report prepared by DCON Safety Consultants detailing the methodology to be employed in respect of the demolition and construction. The information contained in this report is in addition to the Draft Construction Management Plan which accompanies the planning application. Furthermore, a comprehensive structural engineering response has been prepared by Watermain Moylan Engineering Consultants to address the specific concerns raised in the appeal. The report from DCON Safety Consultants sets out various mitigation measures that will be employed to allay the appellant's concerns in relation to dust,

¹ Reference is made in the response to the grounds of appeal of a visual impact response prepared by Kennett Consulting. However, it appears that this document is not on file.

direct, noise, crane use and general health and safety issues. The report by Waterman Moylan provides further details in relation to the methodology to be employed for deep foundations/excavations, basement construction, sequence of works and maintaining the structural integrity of adjoining structures. The report also provides details in relation to piling design and basement temporary works as well as on-going monitoring of site works. It is stated that efforts were made to engage with the appellant and carry out necessary condition surveys. These surveys would have allowed the applicant to provide more exact information in relation to the proposed construction methodologies to be employed.

- 7.3.6. The appellant also argues that the proposed development would result in a loss of residential amenity as a result of overshadowing. The daylight and sunlight assessment conducted by Digital Dimensions submitted in response to the further information request, describes how the proposed development relates to the sunlight/skylight amenities of neighbouring properties. The incorporation of a setback in the design will reduce the adverse impact on neighbouring properties while providing a commercially viable development at an appropriate scale and design. Furthermore, the report concludes that the proposed development is substantially in line with the BRE provisions and therefore the application is considered to be acceptable and worthy of support. It is not altogether clear what the rooms that will be affected are used as. It is possible that the windows affected may be a corridor, bathroom or storage space.
- 7.3.7. It is considered that even under a worst case scenario the assessment shows a minor reduction in the average daylight factor. Reference is also made to the planner's report which expressed general satisfaction in terms of the potential impact on daylight and sunlight having regard to the alterations to be incorporated by way of additional information.
- 7.3.8. With regard to the wider impact in terms of noise, it is noted that the appellant's site currently accommodates a bar. It is considered that the provision of additional retail and restaurant units in the vicinity will enhance the streetscape and create a more active and vibrant area which will increase footfall which will be of benefit to the applicant's enterprise. Furthermore, a preliminary noise assessment prepared by AWN Consultants accompany the application and this assessment found that the proposed development is not likely to result in significant noise emissions once

appropriate mitigation measures are considered during the detailed design phase. The Board are also requested to note that the site is located within the city centre adjacent to a busy wholesale fruit and vegetable market which in itself is likely to generate high levels of ambient noise.

8.0 Planning Policy

8.1. Dublin City Development Plan

- 8.1.1. The site is governed by the policies and provisions contained in the Dublin City Development Plan 2016 – 2022. The site is governed by the zoning objective Z5 the objective of which is to “*consolidate and facilitate the development of the central area, and to identify, reinforce and strengthen and protect its civic design character and dignity*”. Hotel use is a permitted use under this Z5 zoning objective. Shop and restaurant are also permissible uses under this zoning objective.
- 8.1.2. Chapter 6 of the development plan relates to City Economy and Enterprise. Policy CEE12 seeks to promote and facilitate tourism as one of the key economic pillars of the city’s economy and a major generator of employment and to support the provision of necessary significant increase in facilities such as hotels and aparthotels, tourist hostels, cafes and restaurants, visitor attractions including those for children.
- 8.1.3. Policy CEE13(iii) seeks to promote and support the development of additional tourism accommodation at appropriate locations throughout the city.
- 8.1.4. Policy CEE15 seeks to promote and facilitate the transformation of regeneration areas, specifically inner city areas, as a key policy priority and opportunity to improve the attractiveness and competitiveness of the city, including by promoting high quality private and public investment and by seeking European Union funding to support regeneration initiatives to the benefit of residents, employees and visitors.
- 8.1.5. Policy CEE22 seeks to promote and facilitate the crucial economic and employment potential of regeneration areas such as Dublin 1, 7 and 8.

8.2. The National Planning Framework.

- 8.2.1. This national document places strong emphasis on the use of urban land to accommodate development at higher density in order to make better use of underutilised land including infill and brownfield which are serviced by existing facilities and public transport. Compact development seeks to reuse previously developed brownfield land and building up infill sites at appropriate densities to ensure the efficient use of existing social and physical infrastructure.

8.3. The Urban Development and Building Height Guidelines

- 8.3.1. The Urban Development and Building Height Guidelines (December 2018) introduce a more flexible approach to building heights in urban locations. Policy SPPR1 states that in accordance with government policy to support increased building height and density in locations with good public transport accessibility, particularly town/city cores, Planning Authorities shall explicitly identify, through their statutory plans, areas where increased building height will be actively pursued for both redevelopment, regeneration and infill development to secure the objectives of the National Planning Framework and the Regional Spatial and Economic Strategies and shall not provide for blanket numerical limitations on building heights.

9.0 EIAR Screening Assessment

- 9.1. The relevant classes for considerations in relation to EIA Screening is Class 10(b)(iv) *“urban development which will involve an area greater than 2 hectares in the case of a business district, 10 hectares in the case of other parts of the built-up area and 20 hectares elsewhere”*. Whether or not the site is located in a business district is in my opinion a somewhat moot point. It can be reasonably argued that the predominant land uses in the wider area are commercial and therefore being part of an area characterised as a large scale former fruit and vegetable market it could be reasonably argued that commercial land uses prevail in the area and therefore the relevant threshold would be 2 hectares as opposed to 10 hectares. Notwithstanding this point the area of the site in question is 0.2 hectares and therefore a mere 10% of the threshold which would warrant the provision of an environmental impact assessment report. Therefore, having regard to the modest size of the site together

with the nature and scale of the development and the location of the development on an urban brownfield site together with the characteristics and likely duration of the potential impacts I consider that the proposed development is not likely to have significant effects on the environment and therefore the submission of an Environmental Impact Statement is not required. The need for an Environmental Impact Assessment therefore can be excluded at preliminary examination.

10.0 **Planning Assessment**

I have visited the subject site and its surroundings and have had particular regard to the information submitted with the planning application and the appellant's concerns expressed in the grounds of appeal. I consider the critical issues in determining the current application and appeal before the Board are as follows:

- Principle of Development
- Visual Impact
- Overbearing Impact
- Construction Issues
- Overshadowing and Daylight and Sunlight Penetration
- Health and Safety Impacts for Patrons

10.1. **Principle of Development**

10.1.1. The subject site is located in an area that can be described as an area in transition. The area has historically and traditionally been dominated by wholesale fruit and vegetable markets and warehouses. However, recent trends have seen the relocation of fruit and vegetable warehouses moving out of the city to more suburban locations in order to better serve the hinterland of Dublin. As a result, many of the buildings are no longer in use for such services. This is particularly apparent on the adjoining site where under Reg. Ref. 3462/14 the Council approved a Part 8 development for a change of use from wholesale trading to wholesale retail trading together with café and restaurant uses at the main fruit and vegetable market to the immediate east of the subject site. Further developments have been granted for hotels and mixed use development in the surrounding area including on Little Britain

Street (Reg. Ref. 2370/19), Little Mary Street (Reg. Ref. 3629/17) and the Bolands Bakery site (Reg. Ref. 3572/18). Many of these developments relate to hotels and range in size from 6 to 8 storeys in height. The area therefore can be described as an area in transition where redevelopment opportunities exist to develop sites at more sustainable densities in line with the provisions of the National Planning Framework. The NPF seeks to provide more compact development in urban areas at higher densities particularly in city centre areas close to high frequency public transport routes. The Luas Red Line runs through the city to the immediate south of the site.

10.1.2. As referred to above, there are also numerous policy statements in the development plan which seek to promote and facilitate tourism as one of the key economic pillars of the city's economy and become a major generator of employment. In this regard Dublin City Council seeks to facilitate facilities such as hotels, aparthotels and other tourist facilities within the city centre. The proposed development would fully accord with this policy.

10.1.3. Finally, in relation to this issue I note that the proposed development which includes hotel, retail units and restaurant facilities are all permissible uses under the Z5 zoning objective. The development of the subject site for use as a hotel and retail outlets are fully in accordance with Dublin City Council's policies in relation to tourism and regeneration and active land management and in accordance with national policies which seek to develop city centre sites and more sustainable densities.

10.2. **Visual Impact**

10.2.1. As referred to above the subject site is located in an area which can be regarded as being in general transition whereby, historically, the traditional markets area are characterised in the main by 1 to 3 storey warehouse buildings. The area however is being transformed into an area of higher density development which in my view is befitting of an area within the city centre which is well served by public transport. As referred to above, there are a number of buildings which are currently under construction and have recently received the benefit of planning permission which are up to 8 storeys in height and the proposed development in my view is consistent with this trend in terms of the size and scales of buildings being developed.

10.2.2. In this regard I would not consider the proposed development to be unacceptable or result in a visual eyesore as suggested in the grounds of appeal. The suggestion that the proposal represents a mismatch is not in my view an appropriate proposition having regard to the changing character of the area. While the proposed development constitutes a significant increase in terms of size and scale to what currently exists on site, the overall building form is of a conventional design and the incorporation of traditional materials including extensive glazing surrounded by brick is in my view aesthetically pleasing and constitutes a significant visual improvement over that of the existing warehouse buildings which currently exist on site. The extensive glazing at ground floor level creates an appropriate transparency and vibrancy between the public street and the public internal area of the ground floor of the hotel. The provision of additional entrances on both the Little Mary Street elevation and the Arran Street East elevation will attract a greater footfall and result in a more lively vibrant and animated streetscape which again is appropriate in urban design terms.

10.3. **Overbearing Impact**

10.3.1. There can be little doubt that the proposed development will increase the level of overbearing on the appellant's building. The increase in building height from between 8 and 10 metres to a maximum height of 27 metres will undoubtedly have a material impact on the appellant's building in terms of being overbearing. The proposal does represent a significant departure in terms of size and scale. However, I reiterate that the subject site is located within the city centre and there are numerous policy objectives both nationally and locally which seeks to maximise densities at sustainable levels within the city particularly in close proximity to public transport. In terms of building height, the National Planning Framework emphasises the need that in securing compact and sustainable urban growth, there needs to be focus on reusing previously developed brownfield land in well serviced urban locations. There is a need to provide buildings of sufficient scale and quality within the urban environment which can contribute and expand employment within urban areas. I have argued above that the proposed development constitutes a building of appropriate design quality and will result in a more attractive well-designed urban streetscape. The guidelines for Planning Authorities for urban development and building heights seeks to support increased building height and densities in locations

with good public transport accessibility particularly in town and city cores. The guidelines emphasise the need for regeneration and infill development to secure the objectives of the National Planning Framework. In terms of development plan policy, the site can be classified in my opinion as a low rise inner city area in terms of the prevailing local height and context. In these areas, buildings of up to 28 metres will be permissible for commercial development and the proposed development accords with this parameter. Therefore, any impact in terms of being overbearing on the appellant's property needs to be balanced against the wider strategic objectives for urban areas espoused in the development plan, the National Planning Framework and the new guidelines for planning authorities on urban development and building heights. In this context the proposal represents an opportunity to develop a brownfield site at an appropriate density within the city centre and this in my view should take precedence over any potential overbearing impact.

10.4. Construction Issues

- 10.4.1. As in the case of being overbearing, there can be little doubt that the proposed development will give rise to some disturbance and elevated noise levels associated with the construction works having regard to the proximity of the appellant's property to the subject site. Elevated noise and disruption levels are an inevitable consequence of construction activity in existing urban areas. Any impacts however are temporary and short-term in duration. The application was accompanied by a draft construction management plan. Furthermore a tabulated response was also prepared by DCON Safety Consultants. It sets out mitigation measures including monitoring activities in order to alleviate to the greatest possible extent the impacts arising from the construction activities. It provides a suite of measures to ameliorate the impacts from truck movements, dust generation, noise and health and safety. The measures set out in the response can be incorporated by way of condition if the Board are minded to grant planning permission so as the residual impacts arising from the construction phase are minimised to the greatest possible extent.
- 10.4.2. With regard to impacts on the structural integrity of the adjoining building, it is acknowledged that these impacts can be more far reaching and long term than the amenity impacts. However, again the applicant in the response to the grounds of appeal have submitted a structural engineering report. This response sets out a systematic methodology in relation to the sequence of works to be undertaken. It

includes the temporary propping and shoring up of walls, and if required, a series of steel props will be installed to provide temporary support to the walls of the Hacienda Pub. It is noted that there will be approximately an 8 metre separate distance between the external wall of the Hacienda Pub and the edge of the basement level. A secant pile wall will be used to form the basement walls. Piles will be constructed using a low vibration boring drill and these holes will be filled with concrete to form the basement walls. No issues are anticipated with the basement excavation that would have a negative implications on the stability of the Hacienda Pub structure. The proposed new building is to be supported on secant piles taken to rock level. These piles will be driven using a low vibration method of construction and are frequently used in inner city locations. The piles will be setback from the boundaries of the Hacienda. The piles will support cantilevered ground beams which in turn support the proposed new hotel columns and walls adjacent to the Hacienda external walls. This minimises the need to carry out any excavation or lowering of the ground levels adjacent to the Hacienda. The piling design and basement construction techniques will ensure that the structural integrity of the Hacienda Pub will be maintained. There will be strict on-going monitoring of the site works.

10.4.3. There are many precedents within the city centre where largescale constructions have taken place contiguous to existing buildings and this construction was undertaken in a successful manner. There is nothing to suggest that appropriate methodology cannot be employed in this instance to ensure that the structural integrity of the Hacienda Pub is maintained.

10.5. Overshadowing and Daylight and Sunlight Penetration

10.5.1. The appellant in the grounds of appeal argues that the size and scale of the adjoining building will have an unacceptable impact on the small amenity area located at roof level above the Hacienda Pub.

10.5.2. I was unable to gain access to this amenity space at the time of site inspection.²

10.5.3. However, Google Earth images and indeed the photographic evidence submitted by the applicant in his response to the grounds of appeal suggest that the amenity area in question is relatively small in size and is sunken below the upper storeys of the

² Covid-19 restrictions meant that the pub was not open at the time of site inspection.

building. As a result, this private open space would already experience significant overshadowing and limited sunlight penetration. The analysis undertaken in response to the grounds of appeal suggest that the vertical sky component will be reduced by the proposed development. However, it is not clear from the documentation contained on file or the grounds of appeal as to the nature of the rooms which are served by this small outdoor amenity area.

- 10.5.4. The Board will also note that the Little Mary Street elevation has been substantially amended and stepped down to ensure that daylight and sunlight penetration is maximised. It also appears from the analysis undertaken that, while the exact nature of the rooms which could be affected by the proposed development in terms of daylight penetration is not known, the analysis undertaken in the applicant's response to the grounds of appeal by Digital Dimensions suggest that the average daylight factor received by the rooms in question would exceed minimum guidelines.
- 10.5.5. On this basis, and having regard to the arguments set out above in respect of wider land use strategic objectives for the city centres, I consider that on balance the impact of the proposed development in terms of overshadowing and sunlight is acceptable and An Bord Pleanála should not refuse planning permission on this basis.

10.6. Health and Safety Impacts for Patrons

- 10.6.1. Concerns are expressed that the proposed development could have health and safety and amenity implications for the appellant's premises. The appellant argues that the proposal is likely to give rise to excessive dust, air pollution and general disturbance and this will significantly impact on the normal operation of the business undertaken on the Hacienda Pub due to the site being enclosed on two sides by a large building site. I have argued above that construction impacts will be temporary in the short-term and that the applicant has undertaken a commitment to employ construction methodology techniques which would mitigate any potential impacts to the greatest possible extent. The Board will note that the appellant operates a pub on the subject site which in itself will give rise to a certain amount of noise and general disturbance. While the proposed development will give rise to some noise and disturbance during the construction phase, the construction phase will be carried out in general during normal business hours and will not impinge on patrons'

enjoyment of the bar in the evening and night time. Furthermore, the provision of adjoining hotel, bar and restaurant uses will make the general area more attractive for future visitors and patrons and in the longer term may provide to be beneficial to the applicant's premises.

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 based on the reasons and considerations set out below

12.0 Appropriate Assessment

12.1. I note that as part of the documentation submitted with the original application an appropriate assessment screening report was submitted. It notes that the subject site is not located within or directly adjacent to any Natura 2000 sites. The nearest Natura 2000 sites are located between 3 and 4 kilometres away in Dublin Bay. The report concludes that the proposal will not have significant effects on Natura 2000 sites either alone or in combination with other plans or projects.

12.2. I would agree with the conclusions reached in the Appropriate Assessment screening report. The subject site is sufficiently removed from any Natura 2000 sites to ensure that no potential adverse impacts can arise during the construction phase. Any sediment run-off associated with the construction phase will enter into the surface water network and will not discharge directly into any adjoining watercourses which could adversely affect the integrity of the European sites in question. Likewise, during the operational phase all discharge generated by the proposed development will be directed towards the Ringsend Wastewater Treatment Works where upon it will be adequately treated prior to any discharge. The Board will note that the recent upgrading proposed for the Ringsend Wastewater Treatment Works was the subject of a separate appropriate assessment where it was concluded that Natura 2000 sites in the vicinity of the wastewater treatment plant would not be affected. Therefore, having regard to the urban location of the site, the lack of direct connections with regard to the source pathway receptor model and the location of the development in the context of surrounding Natura 2000 sites, it is reasonable to conclude that the

proposed development is unlikely to have any adverse impact on Natura 2000 sites in the vicinity. On this basis it is reasonable to conclude based on the information available, which I consider adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on any European sites in the wider area in view of those site's conservation objectives and therefore a Stage 2 Appropriate Assessment (and the submission of an NIS) is not required.

13.0 Decision

Grant planning permission for the proposed development in accordance with the plans of particular lodged based on the reasons and considerations set out below.

14.0 Reasons and Considerations

Having regard to the zoning objective for the area and the provisions of the Dublin City Development Plan 2016 – 2022, the central Dublin location and the pattern, character and appearance of existing and permitted development in the area and the proximity to significant public transport facilities, it is considered that the proposed development, subject to compliance with conditions set out below, would constitute an appropriate development in this location that would not seriously injure the amenities of the area, property in the vicinity and would be acceptable in terms of urban design and surrounding residential amenity. 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 the additional information received by the planning authority on 29th day of April, 2020, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in

writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. The western façade of the building on Little Mary Street and the northern side of the façade of the building on Arran Street East shall be revised to incorporate a brick finish, incorporating simple articulated detailing at all levels below the setback upper floor area. Details of these changes shall be agreed in writing with the planning authority prior to the commencement of development.

Reason: In the interest of orderly development and the visual amenity of the area.

3. Prior to the commencement of development details of all external finishes to the proposed development together with external lighting, landscaping and public realm finishes shall be submitted to and agreed in writing with the planning authority prior to the commencement of development. Any render finish shall be self-finish and shall not need painting.

Reason: In the interest of visual amenity.

4. A panel of the proposed finishes shall be placed on site to enable the planning authority to adjudicate on the proposal. The construction materials and detailing shall adhere to the principles of sustainability and energy efficiency and high maintenance detailing shall be avoided.

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

5. Full details of all external signage for the hotel and the bar/restaurant shall be submitted to and agreed in writing with the planning authority prior to the commencement of development. The external signage for the hotel which

shall be for informational purposes only shall consist of individual lettering of an appropriate scale, mounted on a façade of the building as indicated in the submitted drawings. The lettering shall be of high quality materials such as stainless steel and shall generally not exceed 0.4 metres in height. A window display shall be maintained at all times in the ground floor hotel lobby and the proposed bar/restaurant unit and the glazing for those units shall be kept free of stickers, posters and advertisements.

Reason: In the interest of visual amenity and to restrict the extent of advertising signage to that appropriate to the environs.

6. . Notwithstanding the exempted development provisions of the Planning and Development Regulations 2001, or any statutory provisions amending or replacing them, no further advertisement signs (including any signs installed to be visible through the windows), advertisement structures, banners, canopies, flags or other projecting elements, other than those agreed in writing with the planning authority prior to the commencement of development, shall be displayed or erected on the building or within the curtilage of the site unless authorised by a further grant of planning permission.

Reason: To protect the visual amenities of the area and to allow the planning authority to assess any further signage or advertisements through the statutory planning process.

7. Prior to the occupation of the independent ground floor commercial units the following details shall be submitted to and agreed in writing with the planning authority.

- Details of the exact use.
- Details of the opening hours.
- Layout and window treatment of the subject unit.

Reason: To ensure a satisfactory standard of development and in the interests of the proper planning and sustainable development of the area.

8. The applicant shall comply with the following requirements of the planning authority's Transportation Division:
- (a) Prior to the commencement of development and on the employment of a contractor, a construction management plan shall be submitted for the written agreement of the planning authority. This plan shall provide details of intended construction practice for the development including a detailed methodology employed in the construction of the basement and include a detailed traffic management plan, hours of working, noise management measures, off-site disposal of construction and demolition waste and shall identify appropriate mitigation measures to protect adjoining residential amenity and to protect operational Luas infrastructure.
 - (b) Details of the materials proposed in public areas and areas to be taken in charge by Dublin City Council shall be in accordance with the document entitled construction standards for roads and street works in Dublin City Council and agreed in detail with the Roads Maintenance Division.
 - (c) All 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.
 - (d) 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.

9. The developer shall facilitate the preservation, recording and protection of archaeological materials or features that may exist within the site. In this regard, the developer shall -

- (a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and

geotechnical investigations) relating to the proposed development,

- (b) employ a suitably-qualified archaeologist who shall monitor all site investigations and other excavation works, and
- (c) provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove.

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

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

10. Prior to the commencement of development, details of all plant, machinery, chimneys, ducting, filters and extractor vents to be used in connection with the development (including any such item used in conjunction with the proposed commercial units hereby permitted) shall be submitted to, and agreed in writing with, the planning authority. These shall include details of any proposed sound attenuation measures to be incorporated within such plant, machinery, chimney, ducting, filters or extraction vents.

Reason: To safeguard the amenities of property in the vicinity.

11. No additional development shall take place above the roof parapet level, including lift motor enclosures, air handling equipment, storage tanks, ducts or other external plant, telecommunication areas, antennae or equipment other than those agreed in writing with the planning authority or those agreed under the previous condition of this order unless authorized by a further grant of planning permission.

Reason: To protect the residential and visual amenities of the area.

12. The proposed bar/restaurant shall not be used for the sale of hot food for the consumption off the premises in the form of a take-away facility.

Reason: To specify the use hereby permitted and in the interest of residential amenity.

13. No external security shutters shall be erected for the hotel or the bar/restaurant (other than at serviced access points) unless authorized by a further grant of planning permission. Details of all internal shutters shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development.

Reason: In the interest of visual amenity.

14. Public access to and from the street shall be maintained to the ground floor bar/restaurant at all times during opening hours.

Reason: To promote active uses at street level.

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

Reason: In the interest of public health and to ensure a proper standard of development.

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

Reason: In the interest of orderly development.

17. 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.

18. Prior to the commencement of development the developer shall submit to and agree in writing with the planning authority 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 for the on-going operation of the development. No raw materials, finished or unfinished products or parts, crates, packaging materials or waste shall be stacked or stored on the site at any time except within the curtilage of the building or storage areas as may have been approved beforehand in writing by the planning.

Reason: To provide an appropriate management of waste and in particular recyclable materials in the interest of protecting the environment and in the interest of the amenity of the area.

19. Site development and building works shall be carried out only between the hours of 0700 hours to 1800 hours Mondays to Fridays inclusive and

between 0800 hours to 1400 hours on Saturdays and not at all on Sundays or public holidays. Deviations from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: To safeguard the residential amenities of property in the vicinity.

20. The developer shall comply with the following recommendations as set out in the submitted Bat Report.

- (a) Should no demolition be carried out within 24 months of the date of the grant of planning permission, the existing buildings should be rechecked from the date of this order for bats immediately prior to demolition.
- (b) All cracks and crevices in the walls must be checked for bats prior to demolition.
- (c) Two schwegler bat boxes must be placed on the wall of the new building, at least 3 metres high, with a clear drop below, details of the exact location of the bat boxes shall be agreed with the planning authority.
- (d) If bats are encountered in any stage of the building work, work must cease and the applicant shall make immediate contact with the NPWS.

Reason: To ensure a satisfactory standard of development.

21. Prior to the commencement of development, the applicant shall comply with the requirements of the Environmental Health Section of Dublin City Council. Details shall be agreed in writing with the planning authority prior to the commencement of development.

Reason: To ensure a satisfactory standard of development.

22. The naming and numbering of streets, buildings and businesses along Little Mary Street and Arran Street East shall be in accordance with the written agreement of Dublin City Council.

Reason: In the interest of orderly street naming and numbering and to enhance urban legibility.

23. The developer shall pay to the planning authority a financial contribution of €530,368 (five hundred and thirty thousand three hundred and sixty-eight 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.

24. The developer shall pay to the planning authority a financial contribution of €383,819 (three hundred and eighty-three thousand eight hundred and nineteen euro) in respect of the Luas Cross City Scheme in accordance with the terms of the Supplementary Development Contribution Scheme made by the planning authority under section 49 of the Planning and

Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. 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 Supplementary Development Contribution Scheme made under section 49 of the Act be applied to the permission.

Paul Caprani,
Senior Planning Inspector.

5th October, 2020.