



An
Bord
Pleanála

Inspector's Report 307838-20

Development

Retention of 35 sq.m. single-storey extension to rear, roof covering over smoking area at ground floor and 2.1 m high wooden boundary fence at 1st floor level. Permission for use of flat roof at 1st floor level to rear as terrace of 74 sq.m.

Location

155 Parnell Street, Dublin 1

Planning Authority

Dublin City Council

Planning Authority Reg. Ref.

2660/20

Applicant(s)

Maty Catering Ltd.

Type of Application

Permission and Retention Permission

Planning Authority Decision

Split Decision

Type of Appeal

First Party v. Decision

Appellant(s)

Maty Catering Ltd.

Observer(s)

Limofitz Irish Property Company
Limited

Date of Site Inspection

21st December 2020

Inspector

Louise Treacy

1.0 Site Location and Description

- 1.1. The subject site has a stated area of 303 m² and is located at No. 155 Parnell Street, Dublin 1. The site is located on the northern side of the street, adjacent to the Parnell Street stop of the Luas green line. The neighbouring buildings in the vicinity of the application site primarily accommodate mixed commercial uses at ground floor level, reflective of the city centre location, with residential uses on some upper floors.
- 1.2. The existing building is a 4-storey over basement, mid-terrace property which accommodates a public bar known as “Mema’s” at ground and 1st floor levels, with 2 floors in storage use above. There is an existing yard/smoking area at the rear of the building, which is accessed via Parnell Place to the north-east of the site.
- 1.3. The yard area extends behind the adjoining properties at Nos. 153/154 Parnell Street, which accommodate a casino use at ground floor level, with residential units on the upper floors. The ground floor level unit of the adjoining property to the west at No. 156 Parnell Street was vacant at the time of my site inspection, with the upper floors noted to be in residential use.
- 1.4. Parnell Place is primarily characterised by residential uses along its eastern side, with a vacant warehouse/industrial style building located directly to the rear/north of the application site. A 2-storey residential building adjoins the north-western corner of the application site to the rear at Rutland Place.

2.0 Proposed Development

- 2.1. The proposed development comprises the retention of a 35 m² single-storey extension to the rear of the building, retention of roof covering over the smoking area at ground floor facing onto Parnell Place and the retention of a 2.1 m high wooden boundary fence at 1st floor level separating 155 and 156 Parnell Street.
- 2.2. The development also consists of planning permission for the use of the flat roof at 1st floor level to the rear of the building as a terrace of approximately 74 m² accessed via an external stairs from the smoking terrace, together with all associated landscaping and site works.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. A **split decision** was issued by Dublin City Council on 10th July 2020 whereby:

- (1) Retention permission was **granted** for the 35 m² single-storey ground floor extension to the rear of the building subject to 10 no. standard conditions; and,
- (2) Permission was **refused** for the retention of the ground floor smoking area and roof covering the smoking area; the retention of a 2.1 m high wooden boundary fence at 1st floor level separating 155 and 156 Parnell Street; and, the use of the flat roof at 1st floor level to the rear of the building as a terrace of approx. 74 m² accessed via an external stairs from the smoking terrace together with all associated landscaping and site works.

3.1.2. For the avoidance of doubt, I note that Dublin City Council's description of the development for which retention permission has been refused as set out above, includes the "retention of the ground floor smoking area and roof covering the smoking area at ground floor facing onto Parnell Place". However, I note with reference to the statutory planning notices that retention permission has been sought to retain the roof covering over the smoking area only, and not the ground floor smoking area itself. As such, I intend to adjudicate this case based on the development description provided in the statutory notices.

3.1.3. Permission was refused by Dublin City Council for 2 no. reasons as follows:

- (1) Retaining the existing smoking section and facilitating an increase in area to the existing smoking section at first floor level, would seriously injure the residential amenities of the surrounding properties, by reason of noise and general disturbance and would therefore constitute an unacceptable intensification of commercial outdoor use on a site where it immediately adjoins existing residential accommodation. The development as proposed would be conflicting with the objectives of both the "Living Over the Shop" and the "Living City Initiative" and would be contrary to the proper planning and sustainable development of the area.

- (2) The proposed development does not enhance the civic character of Parnell Street which is located within the O'Connell Street Architectural Conservation Area and the O'Connell Street Special Planning Control Scheme. The development by itself, and by the precedent for which a grant of permission would set, would be contrary to the stated provisions of the City Development Plan 2016-2022 and to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

- 3.2.2. Dublin City Council's Planning Officer considered that the existing smoking area at ground floor level was excessive and not appropriately set-back from neighbouring properties. The external 1st floor terrace was also considered inappropriate by reason of noise, smoke, pollution and overlooking impacts on neighbouring residential properties. As such, it was considered that the development would represent an unacceptable intensification of a commercial use on a site immediately adjoining residential accommodation.

- 3.2.3. It was further considered that the applicant had ignored the O'Connell Street ACA Guidelines on external alterations, the Shopfront Design Guidelines and had not implemented the previous permission to reinstate appropriate timber windows to the building frontage.

- 3.2.4. The Planning Officer considered that the 35 m² single-storey rear extension to the existing building was acceptable.

3.2.5. Other Technical Reports

- 3.2.6. **Engineering Department Drainage Division:** No objection subject to conditions.

3.3. Prescribed Bodies

- 3.3.1. **Transport Infrastructure Ireland:** No objection subject to conditions.

- 3.3.2. **National Transport Authority:** None received.

- 3.3.3. **Fáilte Ireland:** None received.

- 3.3.4. **An Chomhairle Ealaíon:** None received.

3.3.5. **The Heritage Council:** None received.

3.3.6. **Minister for Arts, Heritage & the Gaeltacht:** None received.

3.3.7. **Irish Water:** None received.

3.3.8. **An Taisce:** None received.

3.4. **Third Party Observations**

3.5. Three third party observations were made on this application by: (1) Pauline Byrne, Roland Bosbach and Philip Nolan of No. 26 North Great George's Street, Dublin 1; (2) Michael Moran of No. 12 North Great George's Street on behalf of North Great George's Street Preservation Society; and (3) M.J. O'Callaghan & O'Keeffe solicitors on behalf of Limofitz Irish Property Company Limited, of No. 153-154 Parnell Street, Dublin 1.

3.6. The points which were raised in the submissions can be summarised as follows:

(1) Misleading development description; (2) non-compliance with planning reg. ref. 4183/17 and the O'Connell Street Architectural Conservation Area Guidelines on external alterations; (3) residential amenity impacts of external 1st floor terrace by way of light, noise, smoke, overlooking and overshadowing; (4) devaluation of the adjoining property at No. 153-154 Parnell Street; (5) unacceptable intensification of a commercial use; (6) substandard development which does not comply with Building Bye Law Regulations, Fire Safety Regulations and Health & Safety Regulations.

3.7. The submission from M.J. O'Callaghan & O'Keeffe solicitors on behalf of Limofitz Irish Property Company Limited includes correspondence from Brock Delappe Estate Agents which states that the development will result in a serious loss of residential amenity for 1st and 2nd floor level occupants of Nos. 153-154 Parnell Street, with disturbance impacts arising to existing tenants. It is also submitted that new tenants will not commit to a lease for this property as a result of the neighbouring use.

4.0 Planning History

- 4.1. **Planning Authority Reg. Ref. 4183/17:** Planning permission granted on 16th February 2018 for a change of use at 1st floor level from lounge/bar to residential use and a change of use from storage to residential use at 2nd and 3rd floor levels, including 1 no. 2-bedroom apartment with roof garden at rear at 1st floor level, 1 no. 1-bedroom apartment with balcony at rear at 2nd floor level, 1 no. 1-bedroom apartment with balcony at rear at 3rd floor level, all within the existing envelope and provision of 6 sq.m extension to existing return at third floor level to provide bathroom, 3 no. roof lights at rear and all apartments being accessed from Parnell Street. The provision of bicycle shed and bin store at rear yard, with access from existing rear wicket gate in rear gates on Parnell Place. Conservation works to front facade to include, removal of paint, repair of brickwork and reinstatement of re-made original windows.
- 4.2. **Planning Authority Reg. Ref. 5210/04:** Planning permission granted on 8th February 2005 for change of use from lounge/bar to residential use and from storage to residential use at 2nd and 3rd floor levels; 6 sq.m. extension to existing return at 3rd floor level; 3 no. rooflights to rear; removal of paint, repair of brickwork and reinstatement of remade original windows to front façade.
- 4.3. **Planning Authority Reg. Ref. 0802/03; ABP Ref. PL.29N.202846:** Planning permission granted on 11th September 2003 for a temporary 5-year period for the retention of 4 no. closed circuit television cameras; including 1 no. at the front and 3 no. at the rear.
- 4.4. **Planning Authority Reg. Ref. 0676/92:** Planning permission granted on 29th July 1992 for change of shop front.
- 4.5. **Planning Authority Reg. Ref. 1744/92:** Planning permission granted on 11th December 1992 for to erect a door along Parnell Place and to erect a single-storey extension to the rear of the licensed premises.
- 4.6. **Enforcement History**
- 4.6.1. **E0971/19:** Roof garden larger than plans. Non-compliance with Planning Authority Reg. Ref. 4183/17.

5.0 Policy and Context

5.1. Dublin City Development Plan 2016-2022

5.2. Land Use Zoning

- 5.2.1. The site is subject to land-use zoning “Z4” (District Centres) which has the objective “to provide for and improve mixed-services facilities”. The rear yard area is subject to land use zoning objective “Z1” (Sustainable Residential Neighbourhoods) which has the objective “to protect, provide and improve residential amenities”.
- 5.2.2. I note that “public house” uses are permissible on Z4 zoned lands and are open for consideration on Z1 zoned lands.

5.3. Conservation

- 5.3.1. The site is located in the O’Connell Street Architectural Conservation Area (ACA) and is subject to the O’Connell Street and Environs Scheme of Special Planning Control.

- 5.3.2. **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.

5.4. Night Clubs/Licensed Premises/Casinos/Private Members’ Clubs

- 5.4.1. In recognition of the importance of Dublin as a thriving and multi-dimensional capital city, there is a need to facilitate the concept of the 24-hour city, particularly in the city centre and other key district centres. Dublin City Council will encourage entertainment/cultural/music uses which help create an exciting city for residents and tourists alike, and which are capable of attracting people in cutting edge industries such as digital media.
- 5.4.2. There is a need to strike an appropriate balance between the role of these entertainment uses in the economy of the city and the following: (a) to maintain high-quality retail functions on the primary city centre streets and ensure a balanced mix of uses; and, (b) to protect the amenities of residents from an over-concentration of late night venues.

- 5.4.3. Noise emanating from and at the boundaries of these establishments are issues which will need to be addressed in planning applications for such establishments. Noise insulation and reduction measures, especially relating to any mechanical ventilation or air-conditioning, will be required to be submitted with any such planning application.
- 5.4.4. In cases where extensions to the existing use of a public house are proposed, the onus is on the applicant to demonstrate that such proposed development will not be detrimental to the residential, environmental quality or the established character and function of the area.
- 5.4.5. Matters that shall be taken into account by the planning authority in assessing planning proposals for these uses and extensions to such uses include, but are not limited to the following: (a) the amenity of neighbouring residents and occupiers; (b) hours of operation; (c) traffic management; (d) shop frontage treatment and impact on streetscape; and (e) proposed signage.
- 5.4.6. **Section 16.36:** Where it is considered that a proposed development is likely to create a disturbance due to noise, a condition may be imposed by the planning authority on any planning permission limiting the hours of operation and level of noise generation.
- 5.5. **O'Connell Street and Environs Special Planning Control Scheme 2016**
- 5.5.1. **Key Objective:** To protect and promote uses that contributes to the special interest or character of specific premises.
- 5.5.2. **Key Objective:** To promote an appropriate mix and balance of uses in the O'Connell Street Area of Special Planning Control.
- 5.5.3. **Key Objective:** To seek the more intensive use of the upper floors and basement levels of buildings in the area.
- 5.6. **Natural Heritage Designations**
- 5.6.1. None.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. A first party appeal has been lodged by O'Neill Town Planning on behalf of the applicant, which can be summarised as follows:

- The Board is requested to only consider the development which has been refused permission by Dublin City Council in accordance with S. 139 of the Planning and Development Act, 2000 (as amended);
- The applicant accepts the refusal of planning permission for the use of the flat roof at the rear 1st floor level and will abandon any attempt to use the area in relation to the licenced premises;
- The grounds of appeal relate solely to the refusal of permission for the retention of the roof covering over the smoking area at ground floor level;
- In the current circumstances of social distancing, the covered smoking area provides important extra space for customers, and has the added benefit of daylight during the day and protection from noise nuisance in the evening for local residents;
- Recent planning history relating to the site (Planning Authority Reg. Refs. 4183/17 and 1744/92) demonstrates that the applicant is complying with the main policies and objectives of the Planning Authority as they refer to Living Over the Shop and the Scheme of Special Planning Control, O'Connell Street and Environs, 2016;
- Public houses are a permitted use on Z4 zoned land and the development complies with the Planning Authority's overall policies and objectives for mixed-use lands;
- Given that the applicant has planning permission for the conversion of the 1st, 2nd and 3rd floor levels to apartments, allied with the covering of the smoking area, suggests that the proposed development would have a positive impact on Council policies with regard to the residential amenity afforded to residents living on upper floors;

- Permitting the roof over the smoking area as proposed would be in keeping with the objectives of both the “Living Over the Shop” and the “Living City Initiative”;
- The premises is a small, locally attended public house on a street without an overconcentration of such uses. A number of super pubs have already been granted planning permission in the O’Connell Street Special Planning Control Area, including an extension to a large pub at Nos. 33, 34 and 35 O’Connell Street (Planning Reg. Refs. 3143/19 and 3217/10);
- The applicant has not commenced the development of the upper floors of the building for residential use, with a minimum of 2.5 years remaining to implement this planning permission (Reg. Ref. 4183/17 refers). The conditions attached to this permission will be fully complied with;
- The development mitigates the negative impacts of the original open smoking area on adjoining residential land uses;
- The development is contained within high walls fronting onto Parnell Place, and as such, will not affect the character and pattern of development in the area or the Architectural Conservation Area;
- The applicant has disposed of the early morning licence for the premises, whereby opening hours commenced at 6 a.m., thus reducing early morning footfall to the public house and improving residential amenities for those living in the area.

6.2. Planning Authority Response

6.2.1. None received.

6.3. Observations

6.3.1. One observation was made on this application by M.J. O’Callaghan & O’Keeffe Solicitors on behalf of Limofitz Irish Property Company Limited. No new issues have been raised (see section 3.6 above for summary of third-party observations).

7.0 Assessment

- 7.1.1. In assessing this case, the appellant's agent has requested that the Board only consider those elements of the development which have been refused permission by Dublin City Council. The appellant's agent has submitted this request under Section 139 of the Planning and Development Act, 2000 (as amended). In this regard I note that planning permission has been refused for: (1) the retention of the roof covering over the ground floor smoking area; (2) the retention of a 2.1 m high wooden boundary fence at 1st floor level separating Nos. 155 and 156 Parnell Street; and (3) the use of the flat roof at 1st floor level to the rear as a terrace of approx. 74 m².
- 7.1.2. In my opinion, the provisions of Section 139 of the Act, which relates to appeals against planning conditions only, do not apply in this instance, given that these elements of the development have been refused permission, rather than being omitted by condition. As such, I intend to assess this case de novo.
- 7.1.3. I am satisfied that the main issues for consideration include:
- Residential Amenity Impacts
 - Impact on Civic Character of Parnell Street
 - Appropriate Assessment
- 7.1.4. Each of these issues is addressed in turn below.

7.2. Residential Amenity Impacts

- 7.2.1. In my opinion, the key consideration in this case is the residential amenity impacts associated with the roof covering to the ground floor smoking area and the proposed 1st floor level terrace to the rear of the property. The subject site is located directly adjacent to existing residential uses, including the apartments on the upper floors of Nos. 153 – 154 Parnell Street and the residential units at Rutland Place to the rear, as well as existing residential uses to the east at Parnell Place. I further note the appellant's intention to implement Planning Authority Reg. Ref. 4183/17 on the subject site, which permits, inter alia, the conversion of the 2nd and 3rd floors of the building to residential uses, with private amenity spaces to the rear. As such, this permission will serve to increase the extent of residential development at this location.

- 7.2.2. Dublin City Council's Planning Officer considered that the ground floor smoking area was excessive and insufficiently set-back from neighbouring properties, while it was considered that the 1st floor terrace would result in noise, smoke, pollution and overlooking impacts to neighbouring residential properties.
- 7.2.3. The appellant has accepted the Planning Authority's refusal of permission for the 1st floor level terrace, and as such, has not provided a rebuttal in relation to same. In seeking to address the refusal of retention permission for the roof covering to the ground floor smoking area, the appellant's agent submits that the covered outdoor space is essential to the operation of the bar and allows the owner to provide food and drink in compliance with social distancing rules. It is also submitted that the development mitigates the negative impacts of the original smoking area on adjoining residential land uses.
- 7.2.4. In considering the issue at hand, I note that the development plan acknowledges that, in seeking to achieve an appropriate balance between the role of entertainment uses in the economy of the city, there is a need to protect the amenities of residents from an over-concentration of late-night venues. The development plan confirms that noise emanating from, and at the boundaries of these establishments, will need to be addressed in planning applications for such development, including noise insulation and reduction measures. Thus, the onus is on applicants to demonstrate that the extension of existing licensed premises will not be detrimental to the residential, environmental quality or established character and function of an area.
- 7.2.5. While the appellant's agent submits that the roof covering mitigates the negative impacts of the original smoking area on adjoining residential land uses, no evidence has been provided to support this position. In this regard, I note that no details have been provided of: (1) the pre-existing noise levels within the ground floor smoking area; (2) the predicted noise levels arising on foot of the installation of the roof covering; (3) predicted noise levels arising from the proposed 1st floor terrace; or (4) any other noise insulation or reduction measures. In my opinion, this is a significant omission given the proximity of the proposed/retained uses to existing and permitted residential uses.

- 7.2.6. I also note that the hours of use of the ground floor smoking area have not been confirmed and given the likely intensification of use which would occur on foot of the enclosure of this space, I consider that the potential exists for significant noise impacts to arise to the occupants of neighbouring residential properties. I also consider that significant noise impacts would arise from the 1st floor level terrace which is an uncovered space. I further consider that the terrace area would facilitate overlooking of the adjoining residential properties at 153-154 Parnell Street and to the rear at Rutland Place.
- 7.2.7. Thus, while the need to promote mixed-uses in the economy of the city is acknowledged, in this instance, I consider that the covering of the ground floor smoking area and the proposed 1st floor level terrace would be unacceptable, by reason of their likely significant noise impacts and overlooking impacts on adjoining residential properties. As such, I consider that retention permission and permission should be refused for these elements of the development. I note that the 2.1 m high wooden boundary fence at 1st floor level separating 155 and 156 Parnell Street is associated with the use of the proposed terrace space, and as such, I consider that retention permission should also be refused for same.
- 7.2.8. This application also seeks retention permission for a 35 m² single-storey extension to the rear of the building, which accommodates additional indoor seating and facilitates access to the outdoor smoking area. Having regard to the established use on the site and the nature and scale of the extension, I consider that the retained development is acceptable and would have no significant negative impact on the residential amenities of neighbouring properties. As such, I recommend that retention permission be granted for this element of the development.

7.3. Impact on Civic Character of Parnell Street

- 7.3.1. Refusal reason no. 2 of the decision issued by Dublin City Council states that the proposed development does not enhance the civic character of Parnell Street, which is located in the O'Connell Street ACA and the O'Connell Street Special Planning Control Scheme. As such, it was considered that the development, by itself, and the precedent a grant of permission would set, would be contrary to the stated provisions of the development plan and the proper planning and sustainable development of the area.

- 7.3.2. In recommending that planning permission be refused for this reason, Dublin City Council's Planning Officer considered that the development does not enhance the civic character of Parnell Street. The Planning Officer also noted that the applicant has not implemented a previous permission on the site, which includes the reinstatement of appropriate timber windows to the building frontage and that a new shopfront has been installed which does not accord with previous permissions. It was also noted that a key objective of the O'Connell Street Special Planning Control Scheme is to seek the more intensive use of the upper floors and basement levels of buildings in the area. Having regard to the foregoing, the Planning Officer considered that the development would be detrimental to the residential amenity of the area and would effectively sterilise the use of upper floors in the buildings in the surrounding area from residential use.
- 7.3.3. In my opinion, the issues of non-compliance identified by the Planning Officer, are not relevant to the assessment of this appeal case. I also note that the reinstatement of timber windows and the shopfront installation are not open for assessment or adjudication under this application. I further note that Planning Authority Reg. Ref. 4183/17 is an extant permission, which includes the replacement of the windows on the front façade, and the appellant's intention to implement this permission on the site. While I acknowledge the objective of the Special Planning Control Scheme to seek the more intensive use of upper floors and basements of buildings in this area, I further note that the upper floors of adjoining buildings are already in residential use. As such, I consider that the key issue in this case, as already discussed, is the impact of the development on these existing uses.
- 7.3.4. In my opinion, the development would not detract from the civic character of Parnell Street, having regard to the established use of the site and the location of the development to the rear of the existing premises. As such, I consider that planning permission should not be refused on this basis.

7.4. Appropriate Assessment

- 7.4.1. Given the nature and scale of the development and the location of the site relative to Natura 2000 sites, no appropriate assessment issues arise, and it is not considered that the development would be likely to have a significant effect, either individually or in combination with other plans or projects, on a European site.

8.0 Recommendation

8.1. I recommend that:

- (1) **retention permission be refused** for the roof covering over the smoking area at ground floor facing onto Parnell Place;
- (2) **retention permission be refused** for the 2.1 m high wooden boundary fence at 1st floor level separating 155 and 156 Parnell Street;
- (2) **planning permission be refused** for the use of the flat roof at 1st floor level to the rear of the building as a terrace of approximately 74 m² accessed via an external stairs from the smoking terrace together with all associated landscaping and site works; and,
- (3) **retention permission be granted** for the 35 m² single-storey ground floor extension to the rear of the building, for the reasons and considerations set out hereunder.

9.0 Reasons and Considerations

(1)

9.1. Having regard to the proximity of the ground floor level smoking area to existing and permitted residential properties, and the intensification of the use of this space which would arise on foot of its enclosure, the Board is not satisfied based on the evidence submitted with the planning application and appeal, that the retained roof covering, would not seriously injure the residential amenities of properties in the vicinity by reason of noise impacts. The development for which retention permission is sought would, therefore, be contrary to the proper planning and sustainable development of the area.

(2) and (3)

9.2. Having regard to the outdoor nature of the 1st floor level terrace and its scale and proximity to residential properties, it is considered that the development for which permission and retention permission is sought, would seriously injure the residential amenities of property in the vicinity by reason of noise and general disturbance and overlooking impacts. The development for which permission and retention

permission is sought would, therefore, be contrary to the proper planning and sustainable development of the area.

(4)

- 9.3. Having regard to the city centre location of the site, its established use, and the nature and scale of the development, it is considered that, subject to compliance with the conditions set out below, the retained single-storey extension would not seriously injure the residential amenities of the area. The development is, therefore, in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1.	<p>The development shall be retained 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 and the development shall be retained in accordance with the agreed particulars.</p> <p>Reason: In the interest of clarity.</p>
2.	<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>
3.	<p>The developer shall pay to the planning authority a financial contribution in respect of the Luas Cross City Scheme (St. Stephen's Green to Broombridge Line) in accordance with the terms of the Supplementary Development Contribution Scheme made by the planning authority under section 49 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.</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 Supplementary Development Contribution Scheme made under section 49 of the Act be applied to the permission.</p>

Louise Treacy
Planning Inspector

26th January 2021