



An
Bord
Pleanála

Inspector's Report ABP308193-20

Development

Permission for a 7-storey Hotel development together with the existing boundary wall, repositioning of gate piers and the widening of the entrance on Clonliffe Road together with all ancillary works.

Location

Holy Cross Lands, Clonliffe Road, Drumcondra, Dublin 3.

Planning Authority

Dublin City Council.

Planning Authority Reg. Ref.

2935/20.

Applicants

Pairc An Chrócaigh.

Type of Application

Permission.

Planning Authority Decision

Grant.

Type of Appeal

Third Party.

Appellants

(1) Kat O'Hea,
(2) Margaret Gaughran.

Observers

- (i) Éanna Ó Caollaí.
- (ii) Paul Tierney and Others.
- (iii) Peter Brannagan.

Date of Site Inspection

10th December, 2020.

Inspector

Paul Caprani.

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1.0 Introduction

ABP308193-20 relates to two third party appeals against the decision of Dublin City Council to issue notification to grant planning permission for a 7-storey hotel on lands to the north of Clonliffe Road to the north of Dublin City Centre. The grounds of appeal argue that the size and scale of the proposed structure is out of keeping with Clonliffe Road and will give rise to significant residential amenity problems. A number of observations have also been submitted supporting the grounds of appeal.

2.0 Site Location and Description

- 2.1. The subject site is located on the northern side of Clonliffe Road approximately 2 kilometres from the city centre. The subject site forms part of the institutional lands of the former Clonliffe Dublin Diocesan Seminary associated with Clonliffe College. The site is located to the immediate north of Croke Park and adjacent to the intersection of Clonliffe Road and Jones Road. The site is approximately a 20 to 25 minute walk from Dublin City Centre. The site forms part of the institutional grounds and is currently laid out as a lawn with mature trees running along the western and northern boundary of the site. A c.2.5 metre high red brick wall with recessed gates providing formal entrance to the college grounds run along the Clonliffe Road boundary. Lands to the north and west of the site form part of the Clonliffe College lands and a formal avenue leading to the college runs along the eastern boundary of the site. Access to the site is via the existing gateway on Clonliffe Road which directly faces onto the junction on Jones Road. This is a signalised junction. Lands on the eastern side of the site accommodate a line of two-storey red brick late Victorian/Edwardian dwellings. The building closest to the site accommodates Shrewsbury House Residential Nursing Home. The adjacent buildings have been amalgamated and extended to the rear as part of the nursing home accommodation. A newer two-storey building has been constructed within the grounds of the nursing home adjacent to the eastern boundary of the site. This building accommodates residential accommodation as well as long-term nursing home accommodation.

2.2. Clonliffe Road is a relatively busy road linking the inner suburban areas of Drumcondra and Fairview. The site has a stated area of 0.51 hectares, has a road frontage of approximately 55 metres and a depth of 90 metres.

3.0 Proposed Development

3.1. It is proposed to construct a hotel on the subject site accommodating 200 bedrooms and rising to a maximum height of 7 storeys. The building is roughly rectangular in shape and fronts onto the Clonliffe Road. It ranges in height from 8.55 metres to 24.05 metres. The proposed hotel faces southwards onto the Clonliffe Road and incorporates an entrance lobby, a bar and restaurant at ground floor level with ancillary staff accommodation and kitchen and storage areas to the rear of the building at ground floor level. A total of 38 surface level car parking spaces are to be located along the eastern side of the site adjacent to the eastern boundary and also along the eastern gable of the hotel. At first floor level it is proposed to provide a total of 29 bedrooms together with a number of meeting rooms and a small gym. The floors above comprise exclusively of hotel bedrooms. The building progressively steps back from the front of the site to the rear with a screened plant area on the roof. The building incorporates an extensive brown brick finish with aluminium PPC windows.

4.0 Planning Authority's Decision

4.1. Decision

4.1.1. Dublin City Council in its decision dated 21st August, 2020 issued notification to grant planning permission subject to 24 conditions.

4.2. Documentation Submitted with Planning Application

4.2.1. The application was accompanied by the following documentation. The main points in each of the reports are briefly summarised below.

- Masterplan Development Document.

This plan sets out the proposed layout for the entirety of the institutional lands in the vicinity of the subject site. It is noted that the lands comprise of approximately 14.5 hectares and it is proposed to accommodate a number of residential blocks together with some office buildings on the lands in question. The indicative layout is indicated in Section 4.6 of the Masterplan.

- A Planning Report

This report sets out details of the site location and context and national and local planning policy as it relates to the subject site.

- A separate Architectural Design Statement assesses the proposed development in the context of the surrounding built environment and sets out details of the overall approach to design layout, massing and external materials. Details of accessibility, transportation and servicing in terms of informing the overall design approach is also contained in the Design Statement.
- A Landscape Design Statement was also submitted which sets out details of the design strategies and the adopted landscape masterplan containing proposals for hard and soft landscaping.
- An Infrastructure Planning Report sets out details of the existing system, the proposed SuDS measures to be implemented as part of the scheme and a site-specific flood risk assessment which concludes that the risk of tidal fluvial and pluvial flooding is low. It notes that there are a number of watermains available to serve the proposed development and it is calculated that the peak flow demand will be in the region of 7.23 litres per second with an average demand of 1.45 litres per second.
- An Outline Construction Management Plan was also submitted which details how the proposed hotel development is to be carried out in a safe, controlled and environmentally sensitive manner adhering to best construction practice.
- A separate Outline Construction and Demolition Waste Management Plan is also submitted which sets out details of the proposed waste management strategy to be employed. It is noted that no demolition works are to take place as part of the proposal.

- A Traffic and Transportation Assessment was also submitted. It notes that the proposed hotel development is to utilise the existing signalised junction at Clonliffe Road/Jones Road. It is stated that the junction requires upgrading from the existing signalised T junction to a signalised 4-arm crossroads in order to provide access. A capacity analysis was carried out on the proposed junction upgrade and it shows that there is capacity for a hotel development as well as the full masterplan development earmarked for the lands in the vicinity. Parking spaces for the hotel development have been provided to comply with the maximum permissible parking requirements as set out in the Dublin City Development Plan. Secure cycle parking is also provided.
- A separate Mobility Management Plan was also submitted which sets out details promoting more sustainable transportation trip patterns.
- A Stage 1 Road Safety Audit was also submitted identifying potential problems from a road safety perspective.
- A separate Architectural Heritage Assessment of the existing boundary wall and entrance gates at Holy Cross College fronting onto Clonliffe Road was submitted. It states that the existing piers and wall appear to have been replaced by 1962. It is also noted that previously there was a gate lodge at the entrance which is no longer in place. It is noted that none of the existing gates, quadrant walls or boundary walls to Clonliffe Road are included on the Record of Protected Structures. The quality of material and the design of the entrance piers and quadrant walls are classed as being quite ordinary. These elements were constructed c.1960. The boundary walls to either side of the entrance would appear to be late 80s/90s. They do not relate to either the historic wall or the entrance in the 1960s. The entrance gates are 20 or 21st century replacement gates. A set of blue painted metal which bear no relationship to the gates which were fitted in the early 1960s. The location of the entrance itself is of significance as it constituted the original entrance point to the site opposite Jones Road. This aspect should be maintained in any development proposal.
- A separate Arboricultural Report states that because of the size and location of the hotel it will inevitably result in a loss of trees on site. However, the loss

of trees will be of limited significance as they will be visually exceeded by the new building. The scale of works will result in changes to the ground environment, will prevent the full and preferred extent of tree protection but effort has been made by the adoption of low impact methodologies and materials to reduce the impacts on the Avenue trees. Tree retention will heavily be dependent on conservation of ground conditions beneath the new surfaces. It is proposed to replenish the trees to be removed by the installation of numerous large trees to the south of the development and this will provide an instant and significant visual impact to the completed site.

- A separate Energy Report was submitted. It states that the design intent of the proposal is to follow the requirements of the energy performance of the Buildings Directive and the Building Regulations 2017 as well as Technical Guidance Document Part L. A targeted Building Energy Rating (BER) of A2 to A3 will be achieved. A simulation model will be used to inform key decisions of building design such as fabric performance metrics. The proposal will achieve a low energy and environmentally friendly development while also providing a comfortable environment for the building's occupants.
- A Daylight, Sunlight and Overshadowing Assessment was also submitted and was prepared using the methodology set out in BRE standards "*Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice*". A daylight, sunlight and overshadowing assessment using simulation modelling and comparing results against BRE Guidelines shows that overall, the proposed development achieves good guidance in accordance with these standards.
- An Ecological Impact Assessment notes that there are a number of designated sites within 5 kilometres of the proposed development site. However, there are no direct impacts on any of these sites and there are no pathways for indirect impacts. Habitats within the proposed development include amenity grassland treelines and ornamental/non-native shrubs. All habitats are considered to be of negligible importance and the removal will have no ecological impact. There are no rare/protected plants or restricted invasive species.

Some of the mature trees have small crevices that could be used by roosting bats, although all trees were considered to have low suitability. In order to avoid impacts on roosting bats and ensure compliance with EU Regulations, some best practice mitigations will be implemented prior to felling these trees. The trees may also provide nesting opportunity for birds. Impacts will be avoided by scheduling pre-clearance works for non-breeding season or be commissioning a pre-construction survey by a suitably qualified ecologist. Subject to the successful implementation of these measures, it is concluded that the proposed development will not cause any significant negative impacts on designated sites, habitats, protected species or any other features of ecological importance.

- Report for Screening for Appropriate Assessment. This report concluded based on the description of the proposed development, an outline of the environmental settings, details of the Natura 2000 site within the potential zone of impact and an assessment of potential impacts. Based on the information presented and a Stage 1 screening assessment it has been demonstrated that there will be no risk of direct, indirect or in combination impacts on any of the Natura 2000 sites and on this basis it is concluded that a Stage 2 Appropriate Assessment is not required.
- A Photomontage booklet was also submitted, depicting the proposal from various vantage points around the site and further distances.
- Lastly an Environmental Impact Assessment Screening Report was submitted. It assesses the proposed development in terms of:
 - The description of the project.
 - The location of the proposed development and the type and characteristics of potential impacts. It concludes the following:

The proposed development does not trigger any threshold for mandatory EIA. The screening report has determined that the characteristics of the proposed development are considered not significant due to scale and nature of the proposal and the characteristics and sensitivities of the receiving environment together with the design and mitigation measures that will be implemented as part of the construction and operational phase

of the proposed development. On this basis the overall conclusion of the screening exercise is that there is no requirement for environmental impact assessment.

4.3. **Planning Authority's Assessment**

- 4.3.1. A covering letter submitted with the application also includes letters of consent from two property owners relating to the site.
- 4.3.2. A number of letters of objection were submitted the contents of which have been read and noted.
- 4.3.3. A report from the **City Archaeologist** note that the proposed development is adjacent to a zone of archaeological constraint for the Recorded Monument DU018-019001. It is recommended that a condition for an archaeological impact assessment including test trenching be attached to any grant of planning permission.
- 4.3.4. A report from the **Drainage Division Engineering Department** states there is no objection to this development subject to the developer complying with the Greater Dublin Regional Code of Practice.
- 4.3.5. The **Transport Planning Division Report** assesses the proposed development in terms of access car parking, bicycle parking, services and operations and construction management. It is stated that there is no objection to the proposed development subject to the incorporation of six conditions.
- 4.3.6. A report from **Irish Water** respectfully requested the applicant submit further information with regard to the following:
 - The output of an Irish Water pre-connection enquiry outlined in the extent of capital upgrades required to the Irish Water and wastewater infrastructure to mitigate flood risk and to cater for the development.
 - A masterplan proposal agreed with Irish Water through a pre-connection enquiry process to ensure consistency with the Irish Water catchment management to mitigate stormwater contributing to the local catchment.
- 4.3.7. In the event that the Planning Authority decides to grant planning permission for the proposed development rather than seek further information from the applicant then Irish Water requests that three conditions be attached.

- 4.3.8. The planning report details the proposed development and notes the various observations on file together with the interdepartmental reports. Relevant planning policies contained in the development plan are also set out.
- 4.3.9. In terms of assessing the proposed development, the planning report makes reference to the existing boundary wall along the front of the site and notes the report of the Conservation Officer that the boundary wall presents a significant contribution to the architectural character of the established streetscape along Clonliffe Road. It is considered that the applicant should explore the potential reuse of the convex brick screens, brick piers and original cappings within the new boundary treatment and this can be dealt with by way of planning condition. It is noted that the hotel use is acceptable in principle under the land use zoning objective and there are numerous policy statements in the development plan which seek to develop and foster tourism in the city. The proposal would also meet the requirements of the development plan in terms of plot ratio and site coverage. The report goes on to assess in detail the building height and massing associated with the development and notes that the development plan in outer city areas permits building heights of up to 16 metres in the case of commercial developments. Reference is also made to the departmental guidelines and urban development and building heights and in particular SPPR1 which seek to support increased building heights and density in locations with good public transport and town and city cores. It is also noted that Planning Authorities should not provide for blanket numerical limitations on building height. The report goes on to assess the proposed development in accordance with various criteria.
- 4.3.10. In terms of the appearance on architectural design reference is made to the photomontages submitted with the application which, according to the planning report, demonstrate that the current design would be of high quality. The report goes on to detail the proposed layout and the impact on the amenity of the adjoining areas. It is considered that the current layout would not result in an unacceptable impact upon the surrounding properties in terms of creating an overlooking or overbearing relationship with adjoining buildings. Alterations to the boundaries in order to improve the amenity for adjoining residents can be addressed by way of condition. The quantum of car parking is considered to be acceptable coupled with the implementation of the mobility management plan.

4.3.11. Finally, the report notes the conclusions of the appropriate assessment and environmental impact assessment screening report submitted. Any while concerns were expressed in some of the objections in relation to drainage it is stated that a site specific flood risk assessment was submitted and this has been reviewed and accepted by the Drainage Division of Dublin City Council. It is concluded that the scale of the development is acceptable, and it would not seriously injure the amenity of neighbouring properties which surround the application site. It is considered that the proposed development would provide a high-quality modern hotel accommodation as well as active ground floor uses. As such, it is considered that the proposed development is fully in accordance with the policies and provisions of the development plan and it is recommended that planning permission be granted for the proposed development.

5.0 Planning History

No appeal files are attached and there appears to be no planning history associated with the subject site. The Board should note that there is a current appeal under ABP308187-20 relating to a first party appeal against Dublin City Council's refusal to grant planning permission for 30 apartments at a site approximately 150 metres to the west of the appeal site at the corner of Clonliffe Road and Holy Cross Avenue.

6.0 Grounds of Appeal

6.1. Two third party appeals were submitted the contents of which are summarised below.

6.1.1. **Appeal on behalf of Ms. Margaret Gaughran of 164 Clonliffe Road, Drumcondra, Dublin 3**

This appeal was submitted on behalf of the appellant by O'Neill Town Planning Consultants. The grounds of appeal are outlined below.

- The proposal is contiguous to the appellant's nursing home and it is considered that the size and scale of the proposed hotel is totally inappropriate in the context of the existing style, scale and mass of buildings along Clonliffe Road. The Board are requested to note that the subject site is

located contiguous to a residential conservation area which it is argued accentuates the inappropriateness of the size and scale of the development proposed.

- The applicants are also aghast at the failure of the proposed to preserve trees which were previously earmarked for preservation on the subject site. Most of these trees it is argued, are in excellent condition and make a major contribution to the city landscape.
- It is argued that the proposed development has ignored national and local planning policy in terms of the protecting the amenities of the area and the historic and architectural heritage of the area.
- The nursing home which adjoins the eastern boundary of the site is a family run private residential home operating since 1958. All the residents of the nursing home are elderly, and many have special needs which include the need not to be disturbed and to live in a placid, passive environment. Of particular importance as an amenity area is the outdoor garden and patio area to the rear and this it is argued will be greatly compromised by the proposed development.
- The height strategy adopted by the applicants' architects is inappropriate having regard to the site context, the height of the adjoining residential buildings and the fact that these buildings are located in a residential conservation zone.
- While the development may comply with BRE guidance, however given the pattern and character of development in the area, it is argued that a much higher bar than the minimum standards must be applied to ensure full compliance with development plan policies and objectives.
- It is argued having regard to the number of bedrooms, bars, restaurants and meeting rooms that the provision of 38 car parking spaces is insufficient and it is suggested that at least 100 spaces should be provided if not 150.
- The height and scale and proximity to the common boundary will ensure that the proposed hotel development will overbear and overshadow the private

open space of the nursing home and will create a significant level of disamenity.

- It is argued that the zoning of the site is primarily to protect existing residential amenity. However, no information has been submitted as to what measures are being taken to ensure that this amenity is protected. It is noted that the Z12 zoning pertaining to the site specifically states that any development on institutional lands has to have regard to the height of existing residential development and standards set out in Chapter 16 of the development plan and have regard to standards in relation to aspect, natural lighting, sunlight, layout and private open space.
- In respect of the Z2 zoning which relates to the appellant's site the guiding principle is to enhance the architectural quality of the streetscape and the area and protect the residential character of the area. Reference is also made in the development plan to Section 14.7 which highlights the need to avoid abrupt transitions in scale between different land use zoning objectives. The grounds of appeal go on to highlight the numerous statements contained in the development plan which seek to respect the character and appearance of existing areas.
- Reference is made to the new Government Guidelines on Urban Development and Building Heights and in particular the guidelines state that in historic environments which can be sensitive to large scale and tall buildings Planning Authorities must determine whether buildings of increased heights are appropriate in such settings. It is argued that the applicants in this instance have ignored the statutory planning framework in favour of a laissez-faire approach to building height. The Board are requested to ensure that a full understanding of the guidelines in respect of building heights is applied to the decision-making functions and in particular having due regard to the transitional nature of the site and the architectural character and pattern of development in the area.
- It is argued that the masterplan, draft as it may be, does not have the necessary quantum of public open space to comply with the 20% requirement set out under the Z12 land use zoning objective. It is noted that the proposed

development does not contribute any public open space as required by the site zoning.

- The proposed development does not respond to its overall natural and built environment or make a positive contribution to the urban neighbourhood and streetscape.
- The design of the development must be considered monolithic and overly horizontal in appearance which further detracts from the sensitive urban environment which it is located. It is not accepted that the building adds anything to the compactness or cohesion of Clonliffe Road. The proposal will have an unacceptable impact on private open space to the rear of the nursing home.
- Documentation submitted with the file states that six of the appellant's windows would experience reductions in the vertical sky component (VSC) below the recommended threshold. It is also stated that two of the windows would fail to meet the winter sunlight requirements of the BRE Guidelines.
- It is also suggested that the proposal has the potential to impact on communication channels and microwave links.
- By way of conclusion. it is stated that the proposed application is premature pending the completion, submission and agreement of a masterplan for the Z12 zoned area. The scale, height and density of the proposed development is inappropriate and contrary to ministerial guidelines.

6.1.2. **Appeal by Kate O'Hea**

The grounds of appeal are outlined below.

- The proposed development is grossly out of scale with neighbouring properties in terms of height and form. The building line and parapet line is clearly not in keeping with neighbouring properties. The parapet line on the front elevation is up to a storey higher than adjoining buildings and is little over 3 metres in depth after which the building rises another 2 storeys before ultimately rising to 7 storeys above street level. The Urban Development and Building Height Guidelines of 2018 suggest that any proposed tall development include for a sufficient variety of form and scale to respond to

the scale of adjoining developments and create visual interest. It is argued that the proposal, to step down the front elevation fronting onto Clonliffe Road represents a token gesture. There is no context for a building of this scale along the road. The non-statutory masterplan should not be used as an excuse to provide this future precedent.

- The proposal will result in 17 metres of long expanses of a blank wall facing onto neighbouring properties to the east. It is contended that the vast expanses of blank façade and the excessive building height will impose upon and detract from the established attractive character of the area.
- The proposal does not include a minimum 20% public open space. Notional depictions of rooflines for unapproved buildings associated with the overall masterplan lands should not be used as justification to grant planning permission for a hotel on the subject site.

7.0 Appeal Responses

- 7.1. A response to the grounds of appeal was submitted by McCutcheon Halley on behalf of the applicant. The response is outlined below.
- 7.2. In relation to bulk, height and scale, reference is made to the planner's report which notes that the subject site is capable of accommodating a scale of development substantially more intensive than the existing situation. Reference is made to the Architectural Design Response prepared by Urban Innovations and is included in Appendix 1 of the appeal response. This includes images and further details of architectural rationale for the proposed development. The building is pushed away from the eastern boundary of the site as far as possible to maximise the distance between the hotel and the existing buildings to the east. It is also stated that the scale of the building at the Clonliffe Road end was substantially reduced from previous iterations. It is noted that the Conservation Officer had no comment with regard to the impact of the proposed development on the Z2 zoned lands adjacent to the application site.
- 7.3. The proposed development will not have any effect on telecommunications channels or microwave links and it is stated that these factors would have been considered by the Planning Authority when assessing the proposed development.

- 7.4. The detrimental effects of bulk, scale and massing of the development were considered in detail by the project architect.
- 7.5. In relation to building height, the planner's report acknowledged that the proposal would be a considerable step change from the current situation. However, the current proposal is considered to result in a high-quality design response. With regard to the plant room, lift overrun and PV panels located above parapet level, it is stated that these are covered by a 3 metre perforated screen which was designed to minimise the visual impact. The proposal in respect of plant screening is fully consistent with Section 26.7.2.2 of the City Development Plan. The proposed building opens up at street level which is considered to welcome users into the hotel and the wider masterplan lands. The height and strategy are considered appropriate having regard to the new building heights emerging in the wider area. The application submission provides a comprehensive evaluation of the effects of the proposal on the historic environment demonstrating that the development will not adversely impact on historic views or vistas or compromise Dublin's existing built heritage. The site also has excellent public transport connections. The proposed development will significantly improve permeability and pedestrian connectivity through the entire masterplan area. The proposal will contribute to the creation of a dynamic high-density mixed-use development on the lands in question. The proposal contributes to the creation of a lively urban neighbourhood. A report submitted with the application indicates that the impacts of the proposed development on the local environment associated with sunlight and overshadowing are all within acceptable limits. The proposal will enhance the permeability and attract activity and footfall at this location. The proposed development will also utilise the most sustainable design options and energy efficient technology available.
- 7.6. It is stated that the base of the building is clearly defined as two-storeys in height and this provides a strong horizontal connection with its neighbouring properties.
- 7.7. With regard to breaking the building line, reference is made to the planner's report which notes that the proposed development would match the existing building line of the properties located to the east of the site. The response goes on to state that critical issues that inform the design included the building's relationship with the boundaries, the street edge and contiguous buildings within the masterplan area.

- 7.8. In relation to daylight, sunlight and overshadowing, the report submitted with the application demonstrates that the proposed development achieves the requirements of the guidance while reductions in the VSC were reported the analysis undertaken demonstrated that good daylight penetration will be safeguarded to the surrounding buildings with the proposed development in place. Where the loss of sunlight affects a small number of windows, the loss of light is only marginally outside the standards set out in the guidelines. And thus a classification of a 'minor adverse impact' is appropriate. It is reiterated that the report submitted demonstrated that there are no reductions in sunlight beyond the BRE Guidelines.
- 7.9. With regard to car parking provision, reference is made to the Roads, Streets and Traffic Division of Dublin City Council which states that the quantum of car parking proposed is considered acceptable coupled with the implementation of the mobility management plan. The site is in Car Parking Area Zone 2 which requires one space per three rooms; hence 67 car parking spaces are required. For the grounds of appeal to suggest that 100 – 150 spaces are required, clearly exceeds the maximum permissible car parking provision allowed under the plan and would be contrary to national policy. The proximity of the site to the city centre together with the availability of public transport makes a reduction in car parking spaces on the subject site appropriate.
- 7.10. With regard to the loss of trees, it is noted that the report received from the Biodiversity Officer of Dublin City Council raised no objection to the removal of trees. It is stated that the loss of eight trees on the appeal site is not considered significant nor will it affect the biodiversity of the subject site. It is also stated that the 'Forest Friends Ireland Survey' which is referred to in the grounds of appeal related to the River Tolka which is c.280 metres away. It is stated that a tree constraint plan carried out for the site effectively sterilised c.40% of the total site space making it difficult to facilitate any development on the site. Sustainable tree retention is costly in respect of developable space and the consideration to remove any trees on the site was given great consideration. While leaving a tree within the development site might appear appropriate, the key issue relates to the expectation of the tree to survive. The critical trees required to be retained are the ones along the Avenue. Furthermore, the tree survey illustrated that five trees would need to be removed regardless of any development due to the poor quality of the tree in question. The

proposal results in approximately eight trees out of a total of 30. Furthermore, ten new trees are to be provided as part of the development.

7.11. With regard to public open space provision, and the status of the masterplan, it is stated that the masterplan seeks to provide a framework for the transition of the site and realise its development potential. These formal institutional lands are no longer in use in for institutional purposes and have been identified in the City Development Plan for future development. The masterplan provides a framework for an integrated approach to the redevelopment of Clonliffe College lands. The plan provides a comprehensive analysis of the site and its surroundings and has informed the design process for the proposed development of the subject site. The provision of a masterplan is fully in accordance with the requirements of the development plan. With regard to public open space, it is required that the public open space would be provided within the wider masterplan lands. The Board are requested to note that the public open space to the front of the hotel would be fully landscaped and will be provided in addition to the 20% public open space provision. Finally, it is stated that since the submission of the application and notification to grant permission it is also worth noting that the masterplan has now been agreed in principle with Dublin City Council. 20% of the overall lands will be set aside for public open space in the masterplan and therefore the proposal fully complies with the objectives of the Z12 zoning.

8.0 Observations

8.1. A total of 4 observations were submitted all of which support the grounds of appeal and object to the proposed development. The four observations were submitted by:

- Eanna O'Caolla
- Paul Tierney and Others
- Peter Branagan and Others
- Claire Cronin

8.2. The issues raised in the various observations are summarised below:

- The removal of mature trees is a major concern and sets a major adverse precedent for future applications.

- The hotel parking arrangements are insufficient. It is noted that there is no public transport serving the Clonliffe Road. Public transport in the area is poor. The increase in coaches and taxis associated with the new hotel development will exacerbate traffic along the road. Traffic is a major consideration and a major source of discontent for residents in the area. The reduction in car parking at the hotel will not discourage people to drive. It will merely create more parking disruption and a proliferation of parking in surrounding streets. Furthermore, it is considered inappropriate to carry out parking surveys outside the main GAA season and events.
- No assessment has been carried out as to whether the proposal will result in the overlooking of the Cornmill Apartments off Distillery Road to the north-east. The hotel bedrooms will result in a significant loss of light for dwellings in the vicinity and will result in direct overlooking of these surrounding residences. The provision of a hotel at this location would significantly and adversely affect the amenities of neighbouring residents in the area through overlooking and overshadowing.
- The proposed development will have a significant adverse impact on the visual amenities of the area. No justification to such a high plot ratio and site coverage has been proffered particularly as the site is located in the conservation area. The scale and bulk of the building is significant and will have a material and adverse impact on the character and visual amenities along Clonliffe Road. The existing buildings of the area are fine grained and Clonliffe Road is one of the very few remaining almost intact Victorian rows in the city. The proposal does not respect the existing building line or ridge line which forms the established character of the street. It is argued that the photomontages submitted are somewhat misleading and do not depict the true scale of the building proposed.
- The Board are requested to note that some of the observations submitted are supported by large sections of the community and therefore while a number of observations submitted objecting to the decision of the Planning Authority are quite modest, opposition to the proposed development is widespread in the area.

- Reference is made to the Balz v. An Bord Pleanála court ruling which highlights the need to ensure the rationale behind the decision is clearly set out and is unambiguous. It is suggested that the planner's report prepared on behalf of Dublin City Council is somewhat unclear and unambiguous in the rationale to grant planning permission. It is noted that an apartment development in the vicinity of the site (An Bord Pleanála Ref. 308187 – this appeal is yet to be determined) was the subject of a refusal by Dublin City Council. It is suggested that Dublin City Council are adopting an inconsistent approach in refusing planning permission for a four and five storey apartment development while granting planning permission in the vicinity for a seven storey hotel apartment. It is argued that many of the reasons for decision in the case of the apartment development are equally applicable to the proposed hotel development.
- The proposal constitutes an abrupt transition in scale between two land use zones. It is argued that this is contrary to Section 14.7 of the Development Plan.
- The proposal will give rise to noise and public disorder. It is stated that the existing Jury's Hotel on Jones Road and the Croke Park Conference Centre are already sources of noise and disturbance.
- The proposal is contrary to the Z12 zoning objective in that it does not provide residential accommodation in accordance with the objective nor does it provide the requisite requirement of 20% of the site area to be given over to open space.
- The Dublin City Development Plan notes that Dublin is fundamentally a low-rise city. The Ministerial Guidelines of 2018 in relation to building height do not apply to hotels. Nevertheless, the Guidelines highlight the need to respect historic environments. It is further noted that the guidelines relate to development within the canal ring and the subject site is located outside this ring.

9.0 Planning Policy Context

9.1. National Planning Framework

- 9.1.1. One of the key overarching goals set out in the National Planning Framework is to achieve compact growth. This is sought by carefully managing the sustainable growth of compact cities, towns and villages. It is noted that the physical format of urban development in Ireland is one of the greatest national development challenges. The preferred approach would be the compact development that focuses on reusing previously developed and brownfield land, building up infill sites which may not have been built on before and reusing and redeveloping existing sites and buildings.
- 9.1.2. National Policy Objective 13 seeks that in urban areas planning and related standards including and in particular building height and car parking will be based on performance criteria that seeks to achieve well-designed high-quality outcomes in order to achieve targeted growth. These standards will be subject to a range of tolerances that enables alternative solutions to be proposed to achieve stated outcomes provided public safety is not compromised and the environment is suitably protected.

9.2. Urban Development of Building Heights – Guidelines for Planning Authorities December 2018

- 9.2.1. Section 1.4 of these Guidelines note that local authorities through their statutory development plans and local area plans have begun to set generic maximum height limits across functional areas. Such limits if inflexibly or unreasonably applied can undermine wider policy objectives to provide more compact forms of urban development as outlined in the National Planning Framework and instead continue an unsustainable pattern of development whereby cities and towns continue to grow outwards rather than consolidating and strengthening the existing built-up areas. In general terms maximum building heights into cities and town centres have tended towards a range of 6 to 8 storeys which have been exceeded only in a limited number of locations.
- 9.2.2. 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, Regional, Spatial and Economic Strategies and shall not provide for blanket numerical limitations on building height.

9.2.3. Policy SPPR2 states that in driving increases in building heights, Planning Authorities shall ensure appropriate mixtures of uses, such as housing and commercial or employment development, are provided for in statutory plan policy. Mechanisms such as block delivery sequencing in statutory plans could be utilised to link the provision of new office, commercial, appropriate retail provision and residential accommodation thereby enabling redevelopment to proceed in a way that comprehensively meets contemporary, economic and social needs such as for housing, offices, social and community infrastructure including leisure facilities.

9.2.4. Section 3.2 sets out development management criteria and these include:

At the scale of the relevant city or town specifically in this regard development proposals incorporating increased building height including proposals within architecturally sensitive areas, should successfully integrate into and enhance the character and public realm of the area having regard to the topography, its cultural context, setting of key landmarks and protection of key views.

9.2.5. Policy SPPR3 states it is a specific planning policy requirement that where

- (a) an applicant for planning permission sets out how a development proposal complies with the criteria set out in the Guidelines, and
- (b) assessment of the Planning Authority concurs taking account of wider strategic and national policy parameters set out in the National Planning Framework and these Guidelines.

9.2.6. Then the Planning Authority may approve such development even where specific objectives of the relevant development plan or planning area may indicate otherwise.

9.3. **Dublin City Development Plan**

9.3.1. The subject site is governed by the Z12 zoning objective to ensure that the existing environmental amenities are protected in any future use of these lands. The plan notes that where lands zoned Z12 are to be developed, a minimum of 20% of the

site incorporating landscape features and the essential open character of the site, will be required to be retained as accessible public open space. The predominant land use on lands to be redeveloped will be residential and this will be actively encouraged. In considering any proposal for development on lands subject to Zoning Objective Z12, other than development directly related to the existing community and institutional uses, Dublin City Council will require the preparation and submission of a masterplan setting out a clear vision for the future further development of the entire landholding. In particular, the masterplan will need to identify the strategy for the provision of 20% public open space requirements associated with any development. To ensure coordinated approach to the creation of high quality new public open space on lands linked to the green network and/other lands where possible. In addition, development at the perimeter of the site adjacent to existing residential development shall have regard to the prevailing height of existing residential development and to the standards in Chapter 16 (Section 16.10) Standards for Residential Accommodation in Relation to Aspect and Natural Lighting, Sunlight Layout and Private Open Space.

- 9.3.2. A hotel use is a permissible use under the Z12 Zoning Objective.
- 9.3.3. Chapter 6 of the development plan relates to the city economy and enterprise. It notes that Dublin must promote and market itself at an international level to a range of audiences including investors, key workers, students and other visitors. The key strategic approach seeks to promote tourism as a key driver for the city's economy particularly through the making of the city attractive for visitors, international education, business, tourism and conventions.
- 9.3.4. Policy CEE12 of the Plan 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, aparthotels, tourism hostels, cafes and restaurants as well as visitor attractions including those for children and to promote and enhance Dublin as a world class tourist destination for leisure, tourism, business and student visitors.
- 9.3.5. Policy CEE14 seeks to encourage that many of the key tourist attractions are in regeneration areas with challenges of dilapidated buildings, vacant sites and public

domain in need of improvement and to develop projects that will address these challenges.

9.3.6. Policy CEE13 seeks to work with Failte Ireland and other stakeholders to deliver on ambitious targets set out in “Destination Dublin” a collective strategy for growth to 2020.

- To support the preparation, adoption and implementation of a strategic regional plan for tourism in the Dublin City region, and to provide a framework for sustainable and efficient provision of and management of tourism across the region.
- To promote and support the development of additional tourism accommodation at appropriate locations throughout the city.

9.3.7. The indicative developments standards for Z12 zoned land include a plot ratio of 0.5 to 2.5 and a site coverage of 50%. The development plan outlines that higher plot ratio and site coverage standards can be permitted in the following circumstances.

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

9.3.8. Section 16.7 of the development plan sets out policy in relation to building heights.

9.3.9. The assessment criteria for higher buildings includes:

- Relationship to context, including topography, built form and skyline.
- Effect on the historic environment at a citywide and local level.
- Relationship to transport infrastructure.
- The architectural excellence of the building whereby a slenderness ratio of 3:1 or more should be aimed for.
- Contribution to public spaces and facilities including mix of uses.
- Effect on the local environment including micro-climate.

- Contribution to permeability and legibility of the site in the wider area.
- Sufficient accompanied material to enable a proper assessment including an urban design study/masterplan at 360 degree view analysis, shadow impact assessment, etc.
- Adoption of best practice guidance in relation to sustainable design.
- Evaluation of providing a similar level of density in an alternative urban form.

9.4. Natural Heritage Designations

- 9.4.1. The site is not located or within adjacent to a designated Natura 2000 site.
- 9.4.2. The nearest Natura 2000 site is the South Dublin Bay and River Tolka Estuary SPA (Site Code: 004024) which is located approximately 1.5 kilometres to the east of the subject site.
- 9.4.3. The North Bull Island SPA (Site Code: 004006) and the North Dublin Bay SAC (Site Code: 000206) is located just less than 5 kilometres east of the subject site.

10.0 EIAR Screening Assessment

- 10.1. The Board will note from a previous section of my report that an environmental impact assessment screening report was submitted for the application. It notes that the site at 0.51 hectares in size is significantly below the 10 hectare threshold set out in Schedule 5(10)(b)(iv) of the Planning and Development Regulations.
- 10.2. The report also assesses the characteristics of potential impacts of the proposal in relation to each of the criteria set out in Schedule 7 of the Planning and Development Regulations. The report reasonably concludes in my opinion that the proposed development cannot be considered significant due to the scale and nature of the proposal and the characteristics and sensitivities of the receiving environment together with the mitigation measures proposed to alleviate any potential impacts on the receiving environment there was no requirement for an environmental impact assessment of the proposed project.
- 10.3. With regard to whether or not the overall masterplan for the lands in question should be subject to EIAR. I refer the Board to paragraph 3.15 of Advice Note 5 on Environmental Impact Assessment provided as internal guidance for the Board. It is

noted that in relation to a development that forms part of a larger masterplan development the full details of which may or may not have been finalised, the guidelines state that Phase 1 of the development is not reliant upon the completion of any other part of the masterplan and in that regard, it can be considered a standalone project. If each part of the masterplan development is subject to EIA Directive in terms of screening and/or assessment then no project splitting arises for the purposes of circumventing the EIA Directive.

11.0 Planning Assessment

11.1. I have read the entire contents of the file, visited the subject site and its surroundings, have had particular regard to the issues raised in the grounds of appeal and the observations submitted supporting the grounds of appeal. I consider the pertinent issues in determining the current application and appeal can be assessed under the following headings below.

- Principle of Development
- Height and Scale of the Development
- Design Issues
- Overlooking, Overshadowing and Daylight and Sunlight Penetration.
- Tree Removal
- Car Parking
- Other Issues

11.2. Principle of Development

11.2.1. One of the objections raised in respect of the proposed development is that a hotel use on site contravenes the Z12 zoning objective pertaining to the site. It is argued that the Z12 zoning seeks to ensure, in the case where institutional lands are developed, that the said lands will be developed for residential purposes. The Z12 zoning objective seeks to ensure existing environmental amenities are protected in the predominantly residential future use of these lands. It is clear therefore from the zoning objective that any proposal to develop institutional land governed by the Z12 zoning will seek to ensure that residential use is “the predominant” use. It does not

imply that any future development of the lands will be exclusively for residential use. The fact that hotel development is a permitted use under the Z12 zoning objective indicates that uses other than residential will be considered. A key consideration in developing Z12 lands includes the preparation of a masterplan for the entire landholding. The applicant has complied with this requirement and submitted a masterplan indicating the indicative development plots within the institutional lands to the north of Clonliffe Road and it is clear from this masterplan that in overall terms residential use will be the predominant use. It is clear that the overall masterplan envisages some office use also within the overall layout. Section 4.6 of the masterplan clearly illustrates however that residential use will be the predominant use within the overall scheme.

11.2.2. Concern is also expressed that the proposal in this instance has not incorporated the 20% minimum public open space required under the Z12 zoning objective. I understand that this objective set out in the development plan relates to the overall lands to be developed. It is not a requirement that the individual parcels of land which are to be developed on a phased basis would be required to incorporate a minimum 20% of the area for open space provision. It is clear from the overall layout indicated in the masterplan that a significant quantum of the site is given over to public open space. Section 4.3 of the masterplan clearly indicates that a significant proportion of the site will be given over to public open space. In fact, Section 4.36 of the masterplan indicates that on the total lands governed by the Z12 zoning objective more than 50% will be retained as open space. In terms of the development lands (excluding the Archbishop's House) the open space to be provided is in excess of 45%. Therefore, in terms of the overall scheme I am satisfied that the 20% open space objective required will be met.

11.2.3. Finally, in relation to this issue the Board will note that what is proposed under the current application is a commercial development and therefore the requirement to provide 20% of the land as public open space would not be as imperative as that associated with the residential element of such development. Any open space provision is better suited to meet the needs of the residential elements associated with the overall masterplan as opposed to the commercial elements.

11.2.4. On the basis of the above assessment therefore I consider the hotel use on the subject site is acceptable in principle and is fully compatible with the Z12 zoning objective.

11.3. Height and Scale of the Development

11.3.1. The construction of a seven-storey structure fronting onto Clonliffe Road constitutes a significant and profound departure from the prevailing height and scale of buildings along the road. The predominant scale of buildings fronting onto the road are two and three storey structures which ostensibly comprise of red brick buildings which are late Victorian/early Edwardian in character. The fact that the row of buildings to the immediate east of the site and directly opposite the site are located within a residential conservation area accentuates the sensitivity of the site in terms of new urban interventions. That said there are a number of arguments which would justify and support a building of significantly larger scale than that prevalent in the immediate vicinity. Firstly, the Board should have regard to the overarching objectives contained in the more recently adopted strategic guidelines which aim to create more compact higher density type development within urban areas which can avail of existing services and employment opportunities. These include objectives set out in the National Planning Framework and the Urban Development and Building Height Guidelines for Planning Authorities. In relation to the latter guidelines, observations submitted suggest that these guidelines only relate to residential development. While the guidelines are certainly applicable to residential development, they are not exclusively aimed at such development. It is clear and unambiguous that through these guidelines government policy seeks to support increased building height in locations with good public transport accessibility and within town/city cores. SPPR1 also seeks to ensure that Planning Authorities do not provide for a blanket numerical limitation on building height.

11.3.2. While the proposal constitutes a significant departure from the existing buildings fronting onto the Clonliffe Road, the institutional buildings associated with the institutional lands, including the College Buildings and the Catholic Church are large and non-domestic in scale and mass and therefore do constitute a precedent in terms of size and scale for the Hotel development.

- 11.3.3. Furthermore, in terms of development and management criteria the guidelines set out a list of criteria under which the applicant shall demonstrate to the satisfaction of the Planning Authority that the proposed development satisfies the said criteria. An assessment of how the proposal complies with the said criteria is set out in the planning report submitted with the application. The Planning Authority have also assessed the proposal in the context of the criteria set out in the Guidelines.
- 11.3.4. It is my considered opinion that the proposed development and the site on which it is located satisfies most, if not all the criteria set out in Section 3.2 of the Guidelines. The proposal is located in close proximity, less than 2 kilometres from the city centre and is located between 500 and 800 metres from good quality public transport arterial routes including Drumcondra Rail Station, the Drumcondra/Swords Road and North Strand, the latter two arterial roads accommodate high frequency bus services. I consider that the proposal takes cognisance of the architecturally sensitive area on the basis that the building although high is relatively slender, incorporates high quality finishes including the extensive use of brick which sits comfortably with the prevailing external finishes along the street.
- 11.3.5. I consider that the proposed development also makes a positive contribution to placemaking particularly in the context of the overall masterplan for the institutional lands. The overall masterplan pertaining to the lands indicates a layout which is conducive to providing new urban spaces and a greater level of permeability through the lands. Furthermore, a hotel use fronting onto Clonliffe Road will create greater vitality animation and vibrancy along the road. The vertical emphasis in the exterior design is in my view well considered and reflective of the architectural style and character of the area.
- 11.3.6. With regard to natural daylight and sunlight penetration these issues are dealt with under a separate heading below. I would however agree with the conclusions in the Planning Authority's assessment that the overall size of the development at seven storeys is unlikely to have micro-climatic impacts nor will it adversely affect telecommunication channels or microwave links as suggested in one of the grounds of appeal. The site located in an urban is unlikely to have significant impacts in terms of birds or bats. In this regard the Board should note the conclusion in the ecological report which came to a similar conclusion.

- 11.3.7. Another relevant consideration in addition to the criteria set out in the Urban Development and Building Height Guidelines is the fact that the area in which the site is located, is evolving and with the development of the institutional lands in the long term is likely to incorporate buildings of a significantly larger size and scale than the prevailing building typology in the area. This in my view is an inevitable consequence of implementing the current land-use planning guidelines in developing urban lands at more sustainable densities. The Board will be aware that the current application and appeal under Reg. Ref. 308187 which seeks the development of a three and four storey apartment block c.140 metres to the west of the site also represents a significant departure from the prevailing density of the area. As argued in the report under An Bord Pleanála Ref. ABP 308187-20, it is not reasonable or indeed appropriate to slavishly adhere to the prevailing size and scale in the redevelopment of lands in the vicinity of Clonliffe Road having regard to national policy and the strategic guidelines referred to above.
- 11.3.8. The Board will also note that while the buildings fronting onto Clonliffe Road are predominantly two and three storey the buildings that form part of the institutional lands associated with the college are of a significantly larger size and scale as are more recent developments including the Cornmill Apartment development to the north-east of the site off Distillery Road are six storeys in height. While the larger scale buildings referred to do not front directly onto Clonliffe Road there are precedents for developments of a similar size and scale in the immediate area of the proposed site.
- 11.3.9. Notwithstanding the arguments set out above, there can be no doubt that the proposed development represents a significant and abrupt transition in scale between the two storey terrace of buildings to the immediate east of the site and the proposed seven storey structure earmarked for the site. While the applicant seeks to address the issue of bulk, scale and massing by reducing and stepping down the height of the building fronting onto Clonliffe Road there is, nevertheless a significant and abrupt transition in scale particularly in terms of the seven-storey element to the rear of the building and the overbearing impact which this could have on the buildings to the east particularly the nursing home. The building rises to a height of over 24 metres and over 27 metres if the lift overruns and roof plant are included. While the upper levels of the buildings and the plant area are set back they will in my

view have an overbearing impact on the dwelling to the immediate east. The proposed building rises to circa three times the height of the adjoining dwelling to the east and a separation distance between the buildings is less than 15 metres.

- 11.3.10. While there is a requirement in accordance with national policy to provide and permit buildings of a greater scale within existing built-up areas particularly in areas closer to the city centre and relatively well served by public transport, any such increase in scale must be balanced against qualitative safeguards. The Board might consider reducing the overall height of the development by at least one storey in order to reduce the impact of the building on adjoining residential amenity and also to ensure that the building constitutes a less strident departure from the prevailing size and scale of the buildings along Clonliffe Road.

11.4. **Design Issues**

- 11.4.1. The grounds of appeal in the observation submitted argue that the proposed design is inappropriate as it represents a significant departure from the prevailing character of the area. I have argued above that a building of a significantly larger scale and height would be appropriate on the subject site having regard to national policy and guidelines although the proposal and perhaps more importantly the amenities of the area may benefit somewhat from a reduction in the overall height by one storey.
- 11.4.2. In terms of the overall design and layout of the building the building makes maximum use of the orientation of the site and also presents an appropriate landmark building at the corner of the Avenue leading into the institutional lands and the junction with Jones Road. The building also incorporates a formal and, in my view, somewhat elegant design which is reflective of the uniformity of the college buildings on the institutional lands to the rear and also reflective of the uniformity of design of the terraces of dwellings on the southern side of Clonliffe Road. The Board will note that there is not the same uniformity of design in relation to the buildings on the northern side of Clonliffe Road and this in my view provides greater flexibility in terms of design approach. The progressive stepping back of the building in order to reduce an overimposing building fronting onto the street is also appropriate in design terms. The incorporation of extensive use of brick and vertical fins on the external elevation incorporate a vertical emphasis which is suited to, and reflective of, the architectural character of the dwellings along Clonliffe Road. The introduction of a plaza area to

the front of the building which is well landscaped will add to the vibrancy and vitality of the streetscape and provide an aminated frontage at the entrance to the overall lands to be developed to the north of Clonliffe Road.

11.4.3. On this basis I consider the overall design approach to be acceptable. I also consider that the reduction of the building by one storey would not detract from the overall aesthetics of the building. A reduction in the structure by one floor will not result in a squat type structure as there is sufficient height in the structure to ensure that it provides a dominant urban edge at the entrance into the institutional lands to the north of Clonliffe Road.

11.5. Overlooking, Overshadowing and Daylight and Sunlight Penetration.

11.5.1. A daylight, sunlight and overshadowing assessment was submitted with the planning application. Daylight and sunlight calculations were carried out in accordance with BRE Standards (2011).

11.5.2. In terms of daylight assessment, a total of 35 windows are assessed in the vicinity of the site. Only windows associated with single storey buildings (possibly sheltered accommodation) directly facing the subject site (Windows 6, 7, 8 and 9) and the west facing windows associated with the newer two-storey dwelling adjacent to the eastern boundary of the site will be somewhat affected by the proposal. The calculated vertical sky component in respect of these windows are marginally below the guideline value. All other windows will not be compromised as a result of the proposed development. An assessment of the proposed hotel building was also carried out the results demonstrate that the occupied rooms of the proposed development will achieve very good sunlight on the whole. It is my considered opinion that the bedrooms associated with the hotel are not as an important consideration as the windows associated with the residential living accommodation in the vicinity of the site.

11.5.3. In terms of sunlight assessment, the analysis undertaken indicates that there is no material change in respect of amenity areas in the vicinity in terms of receiving greater than 2 hours of sunlight per day at the vernal equinox both with or without the proposed development. It is clear however that the amenity area to the rear of the nursing home will be significantly affected in terms of overshadowing during the evening period particularly in the summer months.

- 11.5.4. The BRE Guidelines are not mandatory and do not set out rigid standards or limits. It is clear from the assessment undertaken that the proposed development will result in amenity space that will on the whole comply with the minimum standards set out in the BRE Guidelines. It is perhaps inevitable that the redevelopment of a site within an urban area in close proximity to existing development in light of national policies will result in increased levels of overshadowing and decreased levels of sunlight penetration. The greatest impact will be on the amenity space to the rear of the nursing home. On the whole I consider the impact to be acceptable. However, if the Board are minded to omit the top floor of the hotel development this will consequently provide some improvement to the amenity space in terms of sunlight penetration and more particularly in terms of daylight penetration to the windows of the buildings to the rear of the main nursing home.
- 11.5.5. Therefore, on the basis of the studies and assimilations carried out in respect of daylight, sunlight and overshadowing and the fact that on the whole the proposed development would meet minimum standards in relation to guidelines, it would in my view be disproportionate to refuse planning permission for the proposed development on the basis of its impact on daylight, sunlight and overshadowing. The omission of a floor would to some extent reduce the impact.
- 11.5.6. With regard to overlooking the upper floors on the eastern elevation will give rise to some level of overlooking of the rear gardens of the dwellings to the east. The upper floors are set back to between 19 and 23 metres from the common boundary along the east of the site. There will be some overlooking of the amenity space associated with the nursing home. However, the Board will note that this amenity space currently is not a private residential area in the sense that it is used all the occupants of the nursing home and that this amenity space is currently overlooked by the windows of the single storey buildings which face onto this private space.
- 11.5.7. The distance between the upper floors of the hotel bedrooms and the nearest private dwellinghouse is in excess of 45 metres and therefore acceptable. The separation distance between the proposed hotel and the Cornmill Apartment development is in the order of 70 to 80 metres which is more than sufficient to ensure that no significant overlooking takes place. The Board will also note that there are no windows on the eastern elevation which directly overlook these apartments. On the whole therefore I consider the proposal to be acceptable in terms of overlooking.

11.6. Tree Removal

11.6.1. Significant concerns were expressed in the grounds of appeal and the observation submitted that the proposal would have an unacceptable impact in terms of the removal of trees on site. The Arborist's report indicates that the proposal will result in the removal of approximately eight trees in the rear portion of the site which run in an east/west direction across the site with the exception of two trees (Tree Nos. 132 and 133). The other trees to be removed are either Category C (mediocre to poor trees) or Category U trees (dead, dying or other compromised trees that are unsustainable). Of more importance in my opinion is the fact that the trees along the Avenue leading to the institutional lands along the western side of the site are to be retained. These trees are of more importance from an aesthetic point of view. The applicant notes that five of the eight trees to be removed would be likely to be removed regardless of any development because of their poor quality. Having regard to the quality of the trees to be removed and the fact that it is proposed to compensate their removal with the provision of ten semi-mature trees (4 to 6 metres in height) to the front of the hotel and the retention of trees along the Avenue it is considered that the removal of the trees in question should not be fatal to the overall application and the removal therefore on the whole is acceptable.

11.7. Car Parking

11.7.1. Concerns are expressed at the level of car parking to be provided on-site with the general consensus in both the observations submitted and the grounds of appeal that the level of car parking is insufficient to cater for the demands associated with the hotel. The planning application has been accompanied by a Mobility Management Plan which seeks to introduce a suite of measures aimed at reducing reliance on the private car. The application also points out that the subject site is located within proximity to good quality public transport links. There are no public transport routes along the Clonliffe Road. However, the road links with the Drumcondra Road to the west which accommodates a number of high frequency bus routes to and from the city centre and also accommodates Drumcondra Suburban Rail Station. Drumcondra Road is approximately 500 metres from the subject site. To the east Clonliffe Road links up with the Ballybough Road which accommodates the 123 bus service which is a relatively frequent bus service to and from the city centre but further east the road links up with North Strand which accommodates numerous

high frequency bus services. Perhaps more importantly the site itself is less than 2 kilometres from the city centre and therefore the city centre is accessible by foot to and from the proposed hotel. The subject site is located in Car Parking Area 2 where the development plan allows for a maximum of 1 car parking space per three bedrooms. On this basis the maximum car parking permitted with the hotel would be 66/67 spaces. The provision of 38 spaces is not in my opinion dramatically short of this maximum standard. I consider that the maximum standard in this instance could be reduced on the basis of the site's location in proximity to both the city centre and high frequently public transport routes. If the Board were minded to reduce the quantum of development on site by one floor it would reduce the number of hotel bedrooms by 30 (i.e. from 200 bedrooms to 170 bedrooms). The maximum number of car parking spaces permitted in accordance with the development plan standards would then amount to 56/57 the provision of 38 car parking spaces is less than 20 spaces below this maximum standard. The provision of 38 car parking spaces would in this context be acceptable in my view.

11.8. Other Issues

- 11.8.1. A number of other issues are raised which are briefly assessed below.
- 11.8.2. A number of observations submitted suggested that there is inconsistency in Dublin City Council's decision to refuse planning permission for an apartment development on Clonliffe Road approximately 180 metres to the west of the subject site for reasons relating to the development being unduly obtrusive and out of character at this location and that the proposal would have an unacceptable level of impact on the privacy of adjoining properties and yet at the same time grant planning permission for the proposed hotel development where it is argued similar issues would arise if the development were to proceed.
- 11.8.3. Both decisions of Dublin City Council have been the subject of an appeal and have been assessed by the same planning inspector. The Board will be aware that the recommendation in the case of both applications and appeal is to grant planning permission for the proposals. The Board will assess both applications in accordance with the planning merits of the case and in accordance with the proper planning and sustainable development of the area.

- 11.8.4. It is also argued in one of the observations submitted that the proposal will give rise to an unacceptable level of anti-social behaviour. The subject site is located in an inner-city area and fronts onto a relatively busy road. It is assumed that the hotel will be managed appropriately and as such will not give rise to any excessive noise or anti-social behaviour.
- 11.8.5. Another observation expressed concerns that the proposed development during the construction phase could give rise to structural damage of adjoining properties. The proposed hotel is not contiguous to any existing buildings in the vicinity. A Construction and Environmental Management Plan has also been submitted with the application. The plan sets out commitment to best practice in terms of construction management and incorporates a number of mitigation measures to ensure that potential environmental impacts and health and safety issues associated with the construction process are effectively managed, minimised and where possible eliminated. The Construction Management Plan will also be the subject of consistent monitoring to ensure that any potentially adverse risks are adequately managed throughout the construction works. It is not anticipated therefore that the proposed development will pose a threat to the structural integrity of buildings in the vicinity.

12.0 **Appropriate Assessment**

The nearest Natura 2000 site the South Dublin Bay and River Tolka Estuary SPA (Site Code: 004024) is approximately 1.4 kilometres to the east of the site. Other Natura 2000 sites including the North Bull Island SPA (Site Code: 004006) and the North Dublin Bay SAC (Site Code: 000206) are located c.4.7 kilometres to the east of the subject site. I note the urban location of the subject site and the lack of direct connections with regard to the source – pathway – receptor model and have had particular regard to the scale of the proposed development which is located on a site c.0.51 hectares in size. I also note the AA screening report submitted with the application which comes to the reasonable conclusion in my view that on the basis of objective and scientific information that the proposed project individually or in combination with other plans and projects will result in no risk of direct, indirect or in combination effects on any Natura 2000 sites. 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 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 the view of those sites' conservation objectives and therefore a Stage 2 Appropriate Assessment and the submission of an NIS is not required.

13.0 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. However, it is considered appropriate that the top floor (Floor No. 6) should be omitted from the proposed development in order to reduce the size and scale of the overall development which will have a mitigating effect on the visual impact of the proposed development and will also reduce the impact of the structure on surrounding residential amenities.

14.0 Reasons and Considerations

Having regard to the Z12 Zoning Objective for the area under which hotel is a permitted use and the provisions of the Dublin City Development Plan together with the pattern, character and appearance of development in the area and the proximity to significant public transport facilities it is considered that, subject to compliance with conditions set out below, the proposed development would constitute an appropriate development in this location and would not seriously injure the amenities of the area or of 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, 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 details in writing with the planning authority prior to the commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. The top floor of the proposed hotel (Floor No. 6) shall be omitted in its entirety. Revised drawings detailing this omission has be submitted to and agreed in writing prior to the commencement of development.

Reason: In the interests of the visual and residential amenities of the area.

3. Prior to the commencement of development, a revised boundary treatment to both Clonliffe Road and the eastern site boundaries shall be submitted to and agreed in writing with the planning authority and shall include the following:

- (a) In relation to the Clonliffe Road frontage the applicant shall investigate the reuse of the convex brick screens, brick piers and original cast cappings (or exact replicas of same) within a revised boundary treatment.
- (b) In relation to the eastern boundary details of the proposed boundary wall shall be agreed in writing with the planning authority.

Reason: In the interest of visual amenity.

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

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

5. Prior to the commencement of development, a detailed specification of hard and soft landscaping shall be submitted to and agreed in writing with the planning authority. The agreed specification shall be fully implemented in the first available planting season following the substantial completion of the development. All plants shall be adequately protected until established. Any plants which die or are removed or become seriously damaged or

diseased within a period of five years from the date of planting shall be replaced within the next planting season with others of similar size and species unless otherwise agreed in writing with the planning authority.

Reason: In the interest of visual amenity.

6. Full details of all external signage including signage associated with the hotel reception area, bar and restaurant shall be submitted to and agreed in writing with the planning authority prior to the commencement of development.

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

7. Notwithstanding the exempted development provisions of the Planning and Development Regulations 2001, 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 suite unless authorised by a further grant of planning permission.

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

8. Prior to the commencement of development, the applicant shall submit to the planning authority for written agreement details of the proposed screening/treatment of the ESB substation access stores.

Reason: In the interest of visual amenities.

9. Prior to the commencement of development, the applicant shall submit a maintenance strategy for materials on the external elevation for the written agreement of the planning authority.

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

10. A comprehensive boundary treatment and landscaping scheme shall be submitted to and agreed in writing with the planning authority prior to the commencement of development. The scheme shall include the following:
- (a) Details of the proposed location of trees and other landscape planting in the development including details of the proposed species and settings.
 - (b) Details of the proposed street furniture including bollards, lighting fixtures and seating.
 - (c) Details of the proposed boundary treatments at the perimeter of the site including heights, materials and finishes.
 - (d) The boundary treatment and landscaping shall be carried out in accordance with the agreed scheme.

Reason: In the interest of visual amenity.

11. Window treatment at the ground floor unit shall be clear glazed and kept free of stickers and signage at all times.

Reason: In the interest of visual amenity.

12. No additional development shall take place above roof level other than those shown on the drawings submitted with the application unless authorised by a prior grant of planning permission.

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

13. Notwithstanding the provisions of Class 31 of Part 1 of Schedule 2 of the Planning and Development Regulations 2001, as amended (or any equivalent provision that may replace this class) not telecommunications apparatus that would otherwise constitute exempted development shall be installed on the application property without the written consent of the planning authority.

Reason: In the interest of visual amenity.

14. 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.

15. The applicant or developer shall enter into water and/or wastewater connection agreement(s) with Irish Water prior to the commencement of this development.

Reason: In the interest of orderly development

16. The applicant shall comply with the following requirements of the Planning Authority's Transportation Planning Division.

- (a) Prior to the commencement of development full details of all potential works to the public road and public realm including the upgrading junction and pedestrian crossing on Clonliffe Road shall be agreed in writing with the planning authority. Materials shall be in accordance with the document entitled "*Construction Standards for Roads and Streetworks in Dublin City Council*". Any works to the public road and the public realm including the provision of an upgraded junction and pedestrian crossings, road and footpath modifications, lighting, drainage and materials considered to be acceptable to Dublin City Council shall be carried out at the developer's expense.
- (b) Prior to commencement of development and on the appointment of a contractor, a construction and traffic management plan should be submitted to the planning authority for written agreement. This plan shall provide details of intended construction practice for the development, including a detailed traffic management plan, hours of working, noise management measures, and access arrangements for labour, plant and materials including the location of a plant and

machine compound.

- (c) Cycle parking shall be secure, conveniently located and well lit. Cycle parking design shall allow both wheel and frame to be locked, staff/employee shower and changing rooms shall also be provided as part of the development. Cycle parking shall be in situ prior to the occupation of the development.
- (d) Car parking spaces shall not be sold, rented or otherwise sublet or leased to any parties. They shall be retained by and managed by the hotel and shall be for use of the hotel patrons only.
- (e) Details of the mobility management strategy shall be implemented in full. Details of this strategy shall be agreed in writing with the Transportation Planning Division of Dublin City Council prior to the commencement of development.
- (f) 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.

Reason: To ensure a satisfactory standard of development.

17. The applicant shall comply with the following requirements of the Biodiversity Officer.

- (a) Prior to the commencement of development, the applicant shall contract a suitably qualified ecologist to conduct acoustic bat surveys within the appropriate survey period for bats (May to September). The results of the bat survey should be submitted to Dublin City Council Parks and Landscape Services.
- (b) If bats are found to be present on site, the applicant shall prepare a lighting plan and appropriate mitigation measures to ensure that the proposed development does not cause a loss of foraging habitat or fragmentation of commuting routes for bats. The lighting plan and mitigation measures must be verified by a qualified ecologist and agreed with Dublin City Council Parks and Landscape Services.
- (c) The applicant shall conduct site clearance works and tree felling

outside of the bird nesting season (March to August). If any works must take place during the nesting season, the applicant shall contract a qualified ecologist to inspect the affected area in advance of any works being carried out. If any breeding birds are present, then the applicant is required to notify the NPWS and cease works until such time as the nest has been abandoned. The nest must be rechecked by a qualified ecologist prior to works recommencing.

- (d) The applicant shall ensure that the roof of any building is suitable for nesting birds post construction and does not include deterrents or measure in its design or construction.
- (e) The applicant shall incorporate “swift bricks” into the normal courses of facades, “swift boxes” under the eaves which will need to be installed with reference to the specific design requirements for the targeted species.
- (f) The applicant shall provide pollinator friendly planting in the proposed plaza space to the front of the hotel. The planting plan must be agreed with Dublin City Council Parks and Landscape Services.

Reason: To ensure the development meets the objectives in the Dublin City Development Plan and the City Biodiversity Action Plan.

18. The developer shall facilitate the archaeological appraisal of the site and shall provide for the preservation, recording and protection of archaeological materials or features which may exist within the site. In this regard, the developer shall:

- (a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development, and
- (b) employ a suitably-qualified archaeologist prior to the commencement of development. The archaeologist shall assess the site and monitor all site development works.

The assessment shall address the following issues:

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

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

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

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

19. (a) During the operational phase of the proposed development, the noise level arising from the development, as measured at the nearest noise sensitive location or any point along the boundary of the site shall not exceed
- (i) An Leq 1 hour value of 55dB(A) during the period 0800 to 2200 hours from Monday to Saturday inclusive.
 - (ii) An Leq 15 minute value of 45dB(A) at any other time. The noise at such time shall not contain a tonal component.

At no time shall the noise generated on site result in an increase in noise level of more than 10dB(A) above background levels at the boundary of the site.

- (b) All sound measurements shall be carried out in accordance with the ISO Recommendation 1996:2007:Acoustics – Description and Measurement of Environmental Noise.

Reason: To protect the residential amenities of property in the vicinity of the site.

20. 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.

21. 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 ongoing operation of the development. No raw materials, finished or unfinished products or parts, crates, packaging materials or wastes shall be stacked or stored on site at any time except within the curtilage of the building or storage areas as may have been approved before hand in writing by the planning authority.

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

22. 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 bank 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.

23. The developer shall pay to the planning authority a financial contribution of €757,248 (seven hundred and fifty-seven thousand two hundred and forty-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. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion and maintenance until taken in charge by the local authority of roads, footpaths, watermains, drains, public open space and other services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion or maintenance of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

Reason: To ensure the satisfactory completion and maintenance of the development until taken in charge.

Paul Caprani,
Senior Planning Inspector.

28th January, 2021.