



An
Bord
Pleanála

Inspector's Report

ABP-308336-20

Development	Refurbishment and redevelopment of existing 6 storey building to provide new facades, internal alterations, ancillary plant and office amenities, landscaping and associated works.
Location	New Century House, Mayor Street Lower, IFSC, Dublin 1.
Planning Authority	Dublin City Council
Planning Authority Reg. Ref.	2749/20
Applicant(s)	New Century House (Luxembourg) Holding Sarl
Type of Application	Permission
Planning Authority Decision	Grant
Type of Appeal	Third Party vs. conditions
Appellant(s)	Clarion Quay Management Company CLG
Observer(s)	Transport Infrastructure Ireland
Date of Site Inspection	4 th January 2021
Inspector	Stephen Ward

1.0 Site Location and Description

- 1.1. The site is located within the IFSC, in the north Docklands area of the City, and has a stated area of c. 0.34 ha. The site is bounded to the north by Mayor Street Lower (including a Luas line) and to the west by Commons Street. To the east of the site is an access road which serves the adjoining Clarion Quay residential apartment development and other sites, and to the south is the Citi Bank building. The surrounding area contains a wide variety of uses that have mainly developed around this financial district over recent decades.
- 1.2. The site itself contains a 6-storey office building with a bank branch at ground level, and is stated to have been developed in the late 1990's. The building effectively comprises three wings to the north, east and west, which surround a central south-facing courtyard. Vehicular access to basement-level parking is provided to the southeast corner of the site. Construction fencing has been erected around the perimeter of the site at street level.

2.0 Proposed Development

- 2.1. In summary, the redevelopment of the building comprises the following:
 - New façade treatment to all elevations;
 - New reception space to the rear elevation;
 - Relocation and reduction of existing bank branch to the northeast corner of the ground floor, resulting in a change of use from office to bank in this area;
 - Change of use of former bank branch area to office use;
 - Provision of new/refurbished access along the northern elevation;
 - Additional mechanical plant at roof level;
 - Minor alterations/additions to internal office spaces;
 - Reconfiguration of basement level to provide additional office amenities and bike parking (190 spaces) and car parking (52 spaces);
 - Upgrading of courtyard to include canopy and screening;
 - Alteration to hard landscaping fronting onto Mayor Street Lower;

- Accessible terraces to 5th floor to the north, east and west; and
- All other associated site development works.

2.2. The gross floor area of the building will be increased from 12,223 sq.m. to 12,365 sq.m. The stated intention of the development is to provide high quality modern office accommodation with an improved façade and an active frontage at street level.

3.0 Planning Authority Decision

3.1. Decision

By order dated 8th September 2020, Dublin City Council (DCC) issued notification of the decision to grant permission for the development, subject to conditions. The relevant conditions are discussed later in this report.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The initial planner's report can be summarised as follows:

- The new facades would represent a significant improvement in appearance;
- The reconfiguration of the ground floor level and alterations to entrances would provide a good quality interface with the street;
- Further information is required on the impact of the rooftop plant on neighbouring properties, in terms of daylight/sunlight, air quality and noise;
- A Further Information request is recommended based on the above issues, as well as issues raised by the Transportation Planning Division (see details below).

3.2.2. A Further Information Request was issued on 17th July 2020 and was responded to on 12th August 2020. Following assessment of the response, the planner's report can be summarised as follows:

- The applicant has submitted a noise and air quality impact assessment which concludes that, with the installation of an acoustic louvred screen, the

proposed roof plant will not have an adverse impact on the existing noise climate at the nearest residential receptors.

- Regarding air quality, the assessment submitted confirms that the development will not include sources of emissions or odours of concern, and that a standby generator will be located in the basement level, which will only be used in the event of a power failure.
- A Daylight, Sunlight and Overshadowing Report has been submitted which satisfactorily addresses concerns in relation to adjoining properties. There is, therefore, no objection in this regard.
- In terms of parking arrangements, the number of car spaces in the basement has been reduced and motorcycle parking has been satisfactorily provided. At surface level, 6 car spaces have been reduced to 3 and an additional 10 cycle spaces have incorporated to this area.
- The Transportation Planning Division has raised concerns about the siting of a loading/setdown area for 3 LGVs to the southeast of the site. The area appears to encroach on the footpath and inadequate detail has been submitted regarding management and control of the area. It is recommended that a Servicing Management Plan be required by condition. Overall, the Transportation Planning Division has no objection, subject to conditions.
- It is concluded that the scale of the development is acceptable and would not seriously injure the amenities of neighbouring properties, and that the development complies with the policies and objectives of the Development Plan.
- A grant of permission is recommended, subject to conditions as outlined in the DCC notification of decision.

3.2.3. Other Technical Reports

- Drainage Division: No objections subject to standard conditions.
- Transportation Planning Division: The initial report requested further information to address concerns in relation to:
 - the excessive provision of car-parking and parking management;

- standards of motorcycle and cycle parking provision;
- shower, changing and locker facilities;
- construction traffic management and potential impacts on the infrastructure, safety and operation of the LUAS;
- Provisions for servicing and delivery vehicles.

Subsequent to the receipt of further information, the Transportation Division does not object to the proposed development, subject to conditions which include the following:

- The use of the hardstanding area to the southeast shall be limited to short-term set-down/loading for 1 servicing vehicle at any one time. No parking shall overhang the footpath and a Parking Strategy shall be revised and implemented to reflect these changes;
- A Servicing Management Plan shall be prepared;
- Car-parking spaces shall be permanently allocated to the permitted use; and
- A Construction Management Plan shall be agreed;
- Air Quality Monitoring and Noise Control Unit: No report is included on the appeal file. However, the planner's report indicates that this section raised concern about the impact of rooftop plant and requested further information.
- City Archaeologist: No objections subject to standard conditions.

3.3. Submissions / observations

3.3.1. A submission was received from Transport Infrastructure Ireland which recommended conditions to ensure that the development does not interfere with the ongoing operation and safety of the Luas. It is suggested that a Section 49 Supplementary Development Contribution may apply in relation to the Luas Red Line Docklands Extension.

3.3.2. Three third party submissions were received. The issues raised in the submissions were similar, and can be summarised as follows:

- Procedural concerns about public notice; the commencement of works; DCC interest in the site; and consent for the application;
- The increased building height, including plant rooms, would detract from residential amenity by reason of shadowing/loss of light; loss of view; and overlooking;
- The additional roof plant will increase noise impacts on residential properties, which are already compromised by levels which exceed Development Plan standards. Specific conditions should be imposed to limit noise levels to suitable standards;
- The need to replace the façade is questioned on the grounds of sustainability, waste management and disruption to the neighbourhood;
- The development does not respect the original masterplan for the area, which aimed to create a high-quality residential core around the IFSC Square;
- The plans do not take sufficient account of the property mix in the area and the potential disruption caused by the proposed development;
- Inadequate proposals have been submitted regarding construction management and traffic management. Vehicular and pedestrian traffic to Clarion Quay should be maintained during construction works;
- A loading bay should not be permitted along Alderman Way on grounds of safety and noise generation;
- Construction hours should be limited to 9am to 6pm, Monday to Friday;
- Planted areas to the east of the building should be retained;
- Inadequate signage detail;
- Environmental impacts during the construction and operation stage;
- The potential for additional floor levels; and
- Waste from kitchen operations should be controlled.

4.0 Planning History

The following applies to the appeal site:

P.A. Ref. 2550/18: Permission granted (June 2018) for alterations to the existing landscaped planter and installation of a new sloped access facing onto Commons Road & removal of 1 no. existing electronic platform lift facing onto Mayor Street Lower and all associated site works.

P.A. Ref. 2564/18: Permission granted (June 2018) for alterations to the external facade of New Century House consisting of installation of a new external sign with white illuminated lettering centred on a blue glass fascia background over entrance.

P.A. Ref. 2401/17: Permission granted (June 2017) for (a) The change of use from office to financial banking. (b) External works include the removal of existing entrance door and replacement with new window, the removal of existing sliding door and screen and replacement with new panel incorporating the relocation of the existing external ATM and the provision of new ATM surround, the removal of glazed window section and provision of new glazed entrance doors, the widening and setting back of the existing steps to the new entrance, the provision of a new accessible ramp, and (c) new external signage consisting of new glass fascia sign with illuminated lettering over new entrance and the removal of the existing projecting ATM sign and replacement with new, and all ancillary site works facing onto Mayor Street Lower.

5.0 Policy Context

5.1. Development Plan

5.1.1 The operative Development Plan for the area is the Dublin City Development Plan 2016-2022. The site is zoned as 'Z5', the objective for which is '*To consolidate and facilitate the development of the central area, and to identify, reinforce, strengthen and protect its civic design character and dignity*'.

5.1.2 The primary purpose of this use zone is to sustain life within the centre of the city through intensive mixed-use development. The strategy is to provide a dynamic mix of uses which interact with each other, help create a sense of community, and which

sustain the vitality of the inner city both by day and night. As a balance and in recognition of the growing residential communities in the city centre, adequate noise reduction measures must be incorporated into development, especially mixed-use development, and regard should be given to the hours of operation.

- 5.1.3 The site is located within the Docklands strategic development and regeneration area (SDRA 6), which provides for the continued physical and social regeneration of this part of the city, consolidating the area as a vibrant economic, cultural and amenity quarter of the city, whilst also nurturing sustainable neighbourhoods and communities.
- 5.1.4 Section 16.2.2.3 of the Plan is part of the general design standards and principles. It deals with 'Alterations and Extensions', which should be designed to respect the existing building, its context and the amenity of adjoining occupiers. Of relevance to the current application, it is stated that minor external additions to buildings such as plant, shall be concealed within the building envelope where feasible or designed and sited to minimise their visual impact.
- 5.1.5 Section 16.7.2 states that the scale of plant at roof level should be minimised and have a suitable finish or screening. Plant should not be included in the height of the building, as long as they are setback and properly screened and do not significantly add to the shadowing of the main structure.
- 5.1.6 Section 16.36 deals with the issue of noise. Where it is considered that a proposed development is likely to create a disturbance due to noise, a condition may be imposed by the planning authority on any planning permission limiting the hours of operation and level of noise generation.
- 5.1.7 Other policies / objectives in relation to noise and air quality include the following:
- SI25:** To seek to preserve and maintain air and noise quality in the city in accordance with good practice and relevant legislation.
- SIO26:** To protect residents of mixed-use developments from noise emanating from other uses such as shops, offices, nightclubs, late night busking, public houses and other night time uses through the planning system.

5.1.8 Chapter 8 of the Development Plan deals with 'Transport and Movement' and sets out various policies and objectives aimed at improving sustainability and traffic management, including the following:

MT21: To improve the management and control of traffic in the city, to increase internal and external sustainable accessibility, to improve road safety, to safeguard commercial servicing requirements, to mitigate the impact of construction works and to minimise the adverse environmental impacts of the transport system.

5.1.9 Section 16.38.2 deals with 'service areas', which should be provided where appropriate within the curtilage of the site. These areas are to be used exclusively for service and delivery vehicles, details of which will be determined by the planning authority.

5.2 Natural Heritage Designations

The nearest designation to the site is the Royal Canal pNHA (c.350 metres to the east). In terms of Natura 2000 sites, the South Dublin Bay and River Tolka Estuary SPA is located approximately 1.6km to the northeast, while South Dublin Bay SAC is located approximately 2.7km to the southeast.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1 The decision of DCC to grant permission has been appealed by a third party, namely Clarion Quay Management Co. CLG. The appeal relates to several conditions of the decision, details of which are set out below.

Condition 4

6.1.2 Condition 4 of the permission relates to roof plant and states as follows:

4. The roof mounted building services including Air Handling and Chiller Units shall be enclosed by acoustic screens prior to the occupation of the subject building and shall be maintained at all times.

Reason: To ensure a satisfactory standard of development.

6.1.3 The third party has appealed this condition on the following grounds:

- It is wholly inadequate and does not address concerns regarding the impact of the development on surrounding residential properties, which are a key part of the vision for the area.
- No specific noise standards or limits have been applied, which does not ensure adequate control. Whilst condition no. 14 of the DCC decision does identify a noise standard that can be used (B.S. 4142), the requirement to agree further details of noise control does not satisfactorily address concerns.
- Noise from such plant should not be audible from the closest residence. The rooftop plant should be refused or alternatively conditioned to comply with B.S. 4142.

Condition 5 (a), (b) and (c)

6.1.4 These elements of condition no. 5 relate to service vehicles and parking management. For context, the condition in full states as follows:

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

a) The following shall apply to the subject development;

i. The use of the hardstanding area within the applicant/developers landholding at surface level to the southeast of the site off Unnamed Road (immediately north of the car park entrance to the Basement and west of Clarion Quay building) shall be restricted in use to the short-term set-down/loading for a maximum of 1 no. servicing vehicle only at any one time. Staff, customer and/or visitor parking shall not be permitted at any time;

ii. No vehicles shall overhang the public footpath;

iii. The Parking Strategy as submitted on the 12th August 2020 shall be revised to reflect the abovementioned changes to the parking and set down management arrangements and fully implemented by the relevant personnel/management of the building.

b) A Servicing Management Plan shall be prepared for the development and shall take cognisance of changing traffic, parking and set down/loading management arrangements where arising.

c) Car parking spaces shall be permanently allocated to the permitted use and shall not be sold, rented or otherwise sub-let or leased to other parties.

d) Prior to commencement of development, and on appointment of a main contractor, a Construction Management Plan shall be submitted for the written agreement of Planning Authority and Transport Infrastructure Ireland (TII). This plan shall provide details of intended construction practice for the development, including traffic management, including pedestrian management; Luas infrastructure protection measures; construction vehicle and personnel related access and egress arrangements; hoarding and scaffolding arrangements; hours of working, noise and dust management measures and off-site disposal of construction/demolition waste.

e) 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.

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

Reason: To ensure a satisfactory standard of development.

6.1.5 The third party has appealed elements (a), (b) and (c) of the condition on the following grounds:

- A decision to grant should not have been given prior to the submission of a strategy.
- The approval of surface parking at the 'hardstanding' area prevents the development of better management plans.
- Any additional parking on the road to the east of the site will obstruct traffic movement, including emergency vehicle access.
- By allowing this space to be used for car parking, goods deliveries will have no other option but to unload on the street, thereby creating further congestion and noise.
- There is an option to condition the use of the hardstanding for all deliveries, which would offer some relief from ongoing problems.
- No additional off-street car-parking is necessary for the development.

Condition 15 (iii)

6.1.6 Condition 15 requires compliance with the requirements of Transport Infrastructure Ireland relating to the ongoing operation and safety of the Luas infrastructure. For context, the condition in full states as follows:

15. The applicant shall comply with the following requirements of Transport Infrastructure Ireland:

- i. The proposed development is located in close proximity to a Luas Line; the applicant should ensure there is no adverse impact on Luas operation and safety. The development shall comply with TII's - Code of engineering practice for works on, near, or adjacent the Luas light rail system, The Code is available to view at <https://www.luas.ie/work-safety-permits.html>*
- ii. The developer shall be responsible for any loss of Luas revenue or any other costs associated with a suspension of passenger services which may arise out of, or in consequence of, the design or construction of the development or the presence on the site and any construction access areas and/or the Luas system of any of the developers contractors, sub-contractors, their employees or agents or any other related party.*
- iii. Servicing access arrangements including during construction works shall not have an adverse impact on Luas operation and safety. Prior to commencement of development, full plans and details of all servicing access arrangements for the development, including during construction, shall be submitted for the written agreement of the planning authority with written approval by TII.*
- iv. All deliveries made to the development site, including during the construction phase, shall be made to limit interference with Luas operations.*
- v. The developer shall be required to ensure any works including landscaping, planting and signage do not impede tram drivers' visibility of road junctions, associated signals or affect the footpath to the extent that pedestrians may walk into the swept path of oncoming trams.*

Reason: To ensure a satisfactory standard of development.

6.1.7 The third-party appeal contends that the requirements of 15 (iii) should extend to the operation of Clarion Quay, which relies on these access routes for all emergency vehicle access in a highly restricted area.

6.2. Applicant Response

6.2.1 The applicant requests that the Board uphold the decision of DCC on the basis that it will be a significant improvement on the existing building and would be consistent with the Development Plan for the area. In summary, the applicant addresses the grounds of appeal as follows:

Roof Plant

- Roof plant is essential to the operation of the building and is common to most buildings, including those in the immediate vicinity of the site.
- The plant will be screened to appropriately mitigate visual and noise impacts, as demonstrated in the drawings and documentation submitted.
- The plant will not significantly impact on light or shadowing, as demonstrated in the Daylight and Sunlight Report submitted.
- The noise and air quality assessment submitted has established that the noise levels at Clarion Quay throughout the day (59 dB) would be consistent with existing noise levels. In addition, the application proposed to include an acoustic screen to provide for a 14dB reduction, which is required by condition no. 4. Furthermore, condition no. 14 requires compliance with noise standards.
- As per the condition requirements, the developer will provide an acoustic screen and will submit a strategy for ensuring compliance with noise standards prior to commencement of development.
- As such, the applicant contends that the noise impact of the proposed development has been adequately addressed.

Parking

- The loading bay situated to the southeast of the site is adequately sized for a 3.5ft panel van and a 4.6ft light van. The autotrack analysis submitted

confirms that the movement of smaller vans can be accommodated at this location and can be parked without encroaching on the public footpath.

- However, the applicant is willing to omit this service area and relocate all service arrangements to replace the surface level car parking area in the southwest corner. In addition, the width of the entrance will be increased for safe vehicular access to the service yard. A revised ground floor plan and autotrack analysis is included as part of the appeal response.
- It is clarified that number of car-parking spaces will be reduced from 58 to 49, all to be provided at basement level. The 10 additional bicycle spaces proposed at surface level will be retained.
- The DCC transportation division did not raise an overall objection to the development, subject to conditions.

Service Access Arrangements

- Condition no. 15 relates to the requirements of TII regarding the works adjacent to the Luas line, and is not considered appropriate for the management arrangements of Clarion Quay.
- The proposed development does not impact on the public roadway and does not obstruct or create any access issues for the Clarion Quay apartments.
- However, as a gesture of goodwill, the applicant is willing to relocate the set-down area as previously outlined above.

6.3. Observations

The TII has referred to their original submission and recommends that the same conditions should apply if the decision to grant permission is upheld.

6.4 Further Responses

The appellant has submitted a response to the applicant's response, which can be summarised as follows:

- The proposed rooftop plant is in close proximity to surrounding residential units and associated open spaces.
- The building has operated for almost 20 years without the proposed plant.

- The applicant has erroneously identified other similar plant in the area.
- Reference is made to recent correspondence, purportedly on behalf of the applicant, which, it is stated, commits to:
 - A noise control scheme in compliance with BS4142;
 - The relocation of the loading bay to the southwest corner;
 - The extension of landscaping along the east side of the building into what was previously a smaller loading bay.
- The appeal does not oppose the redevelopment of the building, but any grant of permission should incorporate conditions to include:
 - A measurable standard for the control of plant noise, namely BS4142;
 - An improved operational traffic plan for the area which protects the designated creche drop-off area and emergency vehicle access, which would be achieved by the revised proposals outlined in the applicant's response to the appeal; and
 - Enhanced landscaping at the south-eastern corner of the site to replace the proposed removal of existing trees, as is supported by the Development Plan.

7.0 Assessment

7.1. Nature of the appeal

7.1.1 The submitted appeal relates to condition no.'s 4, 5 (a) (b) & (c), and 15 (iii) of the permission. While the appeal also refers to condition no. 14, I consider that the reference only addresses its relationship with condition no. 4 and does not object to condition no. 14 *per se*.

7.1.2 I am satisfied that the development is otherwise in accordance with the proper planning and sustainable development of the area, and that the determination by the Board of the application as if it had been made to it in the first instance would not be warranted. My assessment will therefore be limited to the matters raised in relation to the terms of the relevant conditions, pursuant to the provisions of section 139 of

the Planning and Development Act 2000 (as amended). My assessment of the issues relating to each of the conditions is outlined below.

7.2 **Condition 4**

- 7.2.1 As previously outlined, this condition requires that the roof mounted building services including Air Handling and Chiller Units shall be enclosed by acoustic screens prior to the occupation of the building and shall be maintained at all times. While the appeal mainly concentrates on the noise impacts of the plant, I note that the application also raised air quality, light/shadow and visual impact issues.
- 7.2.2 In terms of visual impact, I note that the applicant's response to the Further Information Request includes proposals for louver screens around the rooftop plant to a height of 2.8 metres above the parapet. I consider that these screening proposals are a relatively common solution for such buildings and would be in accordance with Development Plan policy in terms of design and mitigation. I consider that these proposals will successfully address any visual impact concerns.
- 7.2.3 I note that a Daylight, Sunlight and Overshadowing Study has been completed to assess the impact of the rooftop plant. Having regard to this study and the minor scale of the proposed works, I am satisfied that the proposal will not seriously detract from the availability of daylight/sunlight to adjoining properties.
- 7.2.4 The applicant's response also included a 'Noise & Air Quality Impact Assessment' completed by Byrne Environmental Consulting Ltd. In summary, the report sets out that:
- Baseline Noise Survey results, taken at first floor level, range from 52 to 64 dB(A) (at Clarion Quay to the east) and from 57 to 68 dB(A) (at Gandon House to the north).
 - At the Clarion Quay Apartments to the east, the combined noise level from all operational plant at 4th floor level will be 59dB without mitigation. The addition of an acoustic louvered screen with a minimum attenuation of 14dB would reduce the level to 45dB.
 - At the Gandon House Apartments to the north, the combined noise level from all operational plant at 4th floor level will be 58dB without mitigation. The

addition of an acoustic louvered screen with a minimum attenuation of 13dB would reduce the level to 45dB.

- The installation of the screens will ensure that there will not be an adverse noise impact on local residential receptors.
- With regard to air quality, the proposed works do not involve any sources of air emissions or odours that would impair air quality or give rise to nuisance.

7.2.5 I acknowledge that Development Plan policy places a strong emphasis on the need to successfully integrate residential development with other commercial uses, and that mitigating potential nuisance sources is an important aspect of this approach. Having reviewed the drawings and documentation submitted by the applicant, I consider that adequate proposals have been submitted to demonstrate that the proposed rooftop plant will not seriously detract from the visual amenity of the area or the residential amenity of adjoining properties.

7.2.6 The appeal refers to the need to include a measurable noise standard as part of condition no. 4 and suggests that, as per condition no. 14, BS 4142 should apply. I note that BS 4142 provides a method for assessing the impact of a source of industrial or commercial sound, including fixed installations. The standard can be used to assess sound, including a change of sound, as a response to a complaint or as part of a planning application, and it supports current UK planning guidance and Environment Agency requirements on noise impact assessments.

7.2.7 I note that the standard has been adopted by DCC as part of condition no. 14, which states as follows:

(a) During the construction and demolition phases, the proposed development shall comply with British Standard 5228 'Noise Control on Construction and open sites Part 1. Code of practice for basic information and procedures for noise control.'

(b) Noise levels from the proposed development shall not be so loud, so continuous, so repeated, of such duration or pitch or occurring at such times as to give reasonable cause for annoyance to a person in any premises in the neighbourhood or to a person lawfully using any public place. In particular, the rated noise levels from the proposed development shall not constitute reasonable grounds for

complaint as provided for in B.S. 4142. Method for rating industrial noise affecting mixed residential and industrial areas.

(c) Before the use hereby permitted commences, a scheme shall be submitted to and approved in writing, by the planning authority for the effective control of noise from the premises. The scheme shall be implemented before the use commences and thereafter permanently maintained.

Reason: In order to ensure a satisfactory standard of development, in the interests of residential amenity.

7.2.8 Having regard to the wording outlined above, I consider that condition no. 14 would relate to the entire development, including the ongoing operation of the rooftop plant in accordance with the terms of BS 4142. However, in the interest of clarity and consistency, I would have no objection to the amendment of condition no. 4 to include appropriate reference to BS 4142.

7.3 Condition 5 (a), (b) & (c)

7.3.1 These conditions relate to the layout and ongoing management of vehicle parking and servicing/delivery requirements associated with the proposed development. Much of the concern raised in the appeal relates to the existence of a parking / loading area at the southeast corner of the site and the disruption that this creates for users of the adjoining road serving Clarion Quay apartments and other developments. It is noted that the DCC Transportation Division also raised concern about the layout and function of this area and contends that the area was permitted as a landscaped area.

7.3.2 Condition no. 5 of the DCC decision would ultimately permit the use of the area for short-term set-down/loading for one servicing vehicle only, to be managed in accordance with a revised Parking Strategy and Servicing Management Plan. While the applicant contends that this is a feasible arrangement, an alternative proposal is included to remove this parking/service area (apparently through the erection of bollards), and to relocate all service traffic to the existing car-parking area at the southwest corner of the site.

7.3.3 I consider that the existing parking/servicing arrangement to the southeast corner of the site is substandard in terms of size/layout and encourages haphazard parking

and vehicle manoeuvres. While condition no. 5 seeks to restrict and manage the use of this space, I would be concerned about the practicalities of enforcing the terms of the condition.

7.3.4 The alternative proposal to relocate all service traffic to the southwest corner (i.e. off Commons Street) is a more suitable arrangement. This would ensure that all service parking would be managed within the site curtilage and would not interfere with the adjoining roads and footpaths, which would be in accordance with Development Plan guidance. While this proposal would result in the loss of existing surface car-parking at the southwest corner of the site, I would be concerned about the loss of these spaces having regard to the central location of the site and its proximity to public transport services. The proposal also involves the widening of the existing entrance off Commons Street by 500mm, which is considered to be a minor alteration that would not materially affect existing traffic conditions along Commons Street.

7.3.5 The applicant's proposal to restrict access to the southeast corner through the erection of bollards is not appropriate. The area should be suitably landscaped to match the remainder of the eastern site boundary and to definitively prevent any further vehicular use of this area.

7.3.6 Having regard to the above, I consider that the proposal to relocate the service traffic to the southwestern corner of the site will address any reasonable concerns about the terms of condition no. 5. While this involves the incorporation of the revised plans submitted in response to the appeal, I am satisfied that the revisions are relatively minor and do not otherwise materially affect the proposed development or the surrounding area.

7.4 **Condition 15 (iii)**

7.4.1 As previously outlined, Condition no. 15 incorporates the requirements of TII relating to the ongoing safety and operation of the Luas infrastructure during construction and operation of the development. In particular, part (iii) of the condition relates to the impact of servicing access arrangements on the Luas network during construction and operation stages.

7.4.2 In this context, I do not consider that the appellant's request to extend the provisions of condition 15 (iii) to include the Clarion Quay development is appropriate. As outlined in the revised proposals discussed in section 7.3 above, I consider that

traffic arrangements during the operational phase of the development will not interfere with the Clarion Quay development. Furthermore, the terms of condition 5 (d) of the DCC decision require the agreement of a Construction Management Plan, to include traffic management, and I consider that this will satisfactorily address any impacts during construction phase.

7.4.3 Having regard to the above, I do not consider that any amendment to condition no. 15 (iii) is warranted in this case.

7.5 Conclusion

7.5.1 In conclusion, I am satisfied that:

- Amendment to condition no. 4, to include reference to noise standard BS 4142, is warranted in the interest of clarity and consistency;
- Amendment to condition no. 5, to incorporate and control the revised parking / servicing arrangements proposed by the applicant, is warranted in the interest of the safety and free flow of traffic; and
- Amendment to condition no. 15 is not warranted as the condition satisfactorily addresses the requirements of TII in relation to the Luas infrastructure and I consider that, otherwise, the traffic impacts on the surrounding area will be satisfactorily addressed by the terms and conditions of the permission.

7.5.2 Although revisions to the development have been proposed by the applicant, I consider that these are minor alterations which can be addressed within the terms of the conditions relevant to this appeal (i.e. 4, 5 (a) (b) & (c) and 15 (iii)), without materially affecting the remainder of the development or surrounding development. I am, therefore, satisfied that the appeal can be dealt with under the provisions of section 139 of the Act.

8.0 Appropriate Assessment

8.1 Having regard to the minor scale of the proposed development, and to the location of the site in a serviced urban area and the separation distance to the nearest European sites, I conclude that the project, individually, or in combination with other plans or projects, would not be likely to give rise to significant effects on any European Sites in view of the sites' conservation objectives, and Appropriate

Assessment including the submission of Natura Impact Statement is not, therefore, required.

9.0 Recommendation

I recommend that the determination by the Board of the application as if it had been made to it in the first instance would not be warranted; that assessment should be limited to the matters raised in relation to the terms of the conditions, pursuant to the provisions of section 139 of the Planning and Development Act 2000 (as amended); and that, based on the reasons and considerations set out below, the Planning Authority should be directed to:

(a) AMEND Condition number 4 as follows:

4. The roof-mounted building services, including Air Handling and Chiller Units, shall be enclosed by acoustic screens designed in accordance with the proposals submitted to the planning authority on 12th August 2020. The screens shall be installed prior to the occupation of the subject building, shall be maintained at all times, and shall ensure that the rated noise levels from the rooftop plant shall not constitute reasonable grounds for complaint as provided for in BS 4142 'Method for rating industrial noise affecting mixed residential and industrial areas'.

Reason: *To ensure a satisfactory standard of development.*

(b) AMEND Condition number 5 as follows:

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

a) The following shall apply to the subject development;

i. The use of the hardstanding area within the applicant/developer's landholding at surface level to the southeast of the site (immediately north of the car park entrance to the Basement) as a loading/parking area shall cease. This area shall be landscaped, including tree-planting, to match the existing and proposed landscaping along the eastern site boundary, proposals for which shall be submitted for the

written agreement of the planning authority prior to the commencement of development.

ii. In accordance with the further plans and particulars received by An Bord Pleanála on the 15th October 2020, the existing car-parking area to the southwest corner of the site shall be replaced with a delivery / loading area and, accordingly, all delivery and service vehicles shall service the building via this space;

iii. The Parking Strategy as submitted on the 12th August 2020 shall be revised to reflect the abovementioned changes to the parking and set down management arrangements, details of which shall be submitted for the written agreement of the planning authority prior to commencement of development. The revised Strategy shall be fully implemented by the relevant personnel/management of the building.

b) A Servicing Management Plan shall be prepared for the development and shall take cognisance of changing traffic, parking and set down/loading management arrangements where arising. The Plan shall be submitted for the written agreement of the planning authority prior to commencement of development.

c) Car parking spaces shall be permanently allocated to the permitted use and shall not be sold, rented or otherwise sub-let or leased to other parties.

d) Prior to commencement of development, and on appointment of a main contractor, a Construction Management Plan shall be submitted for the written agreement of Planning Authority and Transport Infrastructure Ireland (TII). This plan shall provide details of intended construction practice for the development, including traffic management, including pedestrian management; Luas infrastructure protection measures; construction vehicle and personnel related access and egress arrangements; hoarding and scaffolding arrangements; hours of working, noise and dust management measures and off-site disposal of construction/demolition waste.

e) 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.

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

Reason: To ensure a satisfactory standard of development.

(c) ATTACH Condition number 15 and the reason therefor.

Reasons and Considerations

Having regard to the pattern and character of existing development in the area, it is considered that the terms of the relevant conditions of the planning authority decision, subject to the modifications as set out above, would not detract from the visual amenities of the area, would not detract from the residential amenity of adjoining properties, and would be acceptable in terms of pedestrian and traffic safety and convenience. The modified conditions would, therefore, be in accordance with the proper planning and sustainable development of the area.

Stephen Ward
Senior Planning Inspector

13th January 2021