



An  
Bord  
Pleanála

## Inspector's Report ABP 308627-20

<b>Development</b>	Demolition of existing structures Construction of seven and eight storey over basement 106 bed hotel (4045.10 square metres) & pedestrian access from Ushers Street and Usher's Quay, services/ site works.
<b>Location</b>	No 1, 1A & 2 Usher's Street and Nos 29-30 Usher's Quay, Dublin 8.
<b>Planning Authority</b>	Dublin City Council
<b>P. A. Reg. Ref.</b>	2409/20.
<b>Applicant</b>	Cloudwell Ltd.
<b>Type of Application</b>	Permission
<b>Decision</b>	Grant Permission.
<b>Third Party Appellants.</b>	An Taisce KOD Lyons Solrs. Peadar McCormack. Quest Computing
<b>Observer</b>	QEC Ltd.
<b>Date of Inspection</b>	6 <sup>th</sup> February, 2021.
<b>Inspector</b>	Jane Dennehy

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## 1.0 Site Location and Description

- 1.1. The site has a stated area of 552 square metres and is a corner site within frontage onto Usher's Street along the east boundary and onto Usher's Quay on the northern boundary. Nos 29/30 Usher's Quay at the corner is a three-storey office building stated to have been in use as a language school but now vacant. The structures at No 1, 1A & 2 Usher's Street former historic buildings have been demolished and this area within the site had been cleared at the time of inspection. No 2 Usher Street is the site of a nineteenth century warehouse. A six and seven storey building of relatively recent construction is located to the south of the site with frontage onto Usher's Street to the east and south with commercial use at ground floor level. Usher's Court is to the rear/west side of the site and it has access vehicular and pedestrian access from Usher's Quay and is in multiple occupancies in office and commercial uses. Further to the west facing onto Usher's Quay is a mixed use building of relatively recent construction. Oliver Bond House, a complex of apartments is located to the east and south of Usher's Street.

## 2.0 Proposed Development

- 2.1. The application lodged with the planning authority indicate proposals for
- Demolition of existing three storey block at Nos 29/30 Usher's Quay
  - Construction of a seven and eight storey over basement 106 bed hotel & pedestrian access from Ushers Street and Usher's Quay, services/ site works.
- 2.2. The hotel development is to provide for 106 hotel bedrooms, restaurant, public bar, seating areas, reception an ancillary space for administration, staff facilities, cycle storage and circulation with an ESB substation. Plan is to be located at basement and at roof levels. The total stated floor area is 4045.10 square metres and the height is 23.8 metres.
- 2.3. According to the written submission the proposed footprint and selection of materials and height are similar to those of the previously permitted development under P. A. Reg.Ref.3328/18.
- 2.4. An additional information request was issued on 19<sup>th</sup> June 2020 regarding, consistency with section 15.8.5 of the CDP, issues with regard to potential for over

concentration of hotel development within the lodged justification assessment report, design having regard to the location within the City Quays Conservation Area, and provision for active street frontage at ground level.

- 2.5. The further information submission lodged on 17<sup>th</sup> September, 2020 indicates contentions as to scope for flexibility in the application of the mixed use requirements of the Z5 zoning having regard to section 14.8.5 of the CDP in conjunction with the application of other policies and objectives in the CDP relating to tourism infrastructure and economic development and existing land-uses in the area, elaboration on the case made for the development in the justification assessment report submitted at application stage, revisions to the design, articulation, to reflect historic plots and materials selection for the street frontage elevations and the ground floor frontage showing restaurant /bar use, which would be open to non-residents, overlooking Usher's Street and the main entrance located on Usher's Quay.

### 3.0 **Planning Authority Decision**

#### 3.1. **Decision**

By order dated, 14<sup>th</sup> October, 2020, the planning authority decided to grant permission further to issue of a request for and receipt of an additional information submission.

The conditions attached, which include requirements for use of the bedrooms solely for hotel use are of a standard nature.

#### 3.2. **Planning Authority Reports**

**The City Archaeologist:** The report of 25<sup>th</sup> March, 2020 contains a note of the location at Usher's Island within the zone of archaeological constraint for Recorded Monument DU018-020 (Dublin City) and presence from test excavations in the area of surviving material above riverine silts and possible surviving subsurface late seventeenth century development. In view the proposed basement excavation and construction an archaeological monitoring condition is recommended.

**The Transportation Planning Division:** The report includes an account of the recommendations on the prior applications and it indicates no objections subject to conditions to include requirements, by condition, for a construction and demolition management plan and a construction and demolition waste management plan and operational waste and services management plan, cycle parking and arrangements for loading and minor details relating to the entrance off Usher's Quay.

**The Drainage Division:** The report indicates no objection subject to conditions.

**The Waste Management Division:** The report indicates no objection subject to conditions.

**The Planning Officer:** Further to review of the original and further information submissions and technical reports, the prior planning history into account the planning officer and other extant grants of permission in the Liberties indicated acceptance of the proposed development. Observations on the revised proposal include a note that the development may be effective in militating against the prevalence of use of residential development as short let Airbnb accommodation, acceptable revisions to the design materials and form considered to be contemporary and height which is consistent with the previously permitted development and live street frontage at ground floor level.

### 3.3. Prescribed Bodies

**An Taisce:** A submission was lodged by An Taisce, (one of the Appellant parties) in which objections relate to the proposed use as a hotel, impact on the conservation area along the river, excessive height and failure to provide for subservience within the visual curtilage of the Four Courts building. objection to the removal of the nineteenth century warehouse at No 2 Usher's Street.

**Failte Ireland:** A submission was lodged by Failte Ireland indicating support for the proposal of ground of facilitation of provision of additional hotel accommodation in the city.

### 3.4. Third Party Observations

- 3.4.1. Observations lodged at application stage by several parties including the Appellant parties indicate objections on grounds of oversupply of hotel development in the Liberties area, overdevelopment, excessive height, adverse visual impact on the riverside and the conservation area,, overlooking, overshadowing, lack benefit to the community, local economy and public realm, adverse impact on traffic circulation and public safety, construction stage noise and nuisance and potential vibration during excavation for the basement.

## 4.0 Planning History

**P. A. Reg. Ref. 3328/18:** Permission was granted for demolition of all existing structures and construction of a six to eight storey residential over ground floor commercial development providing for 28 no. apartments: (5 no. 1 bed units; 22 no. 2 bed units; and 1 no. 3 bed unit) with private balconies. The parapet height of the proposed development at its highest point is 26.3m with setback upper floors of the from the Usher Street and a commercial/retail unit at ground floor level, ancillary laundry room and gym facility; secure bicycle store with 66 no. spaces; store; plant rooms; and ESB substation hard and soft landscaping including, a communal roof terrace at 6th floor level and private terrace at penthouse level; boundary treatments; PV panels; SuDS measures including blue roof surface water attenuation; and all other associated site excavation and site development works above and below ground. Access to the residential units via a private entrance lobby off Usher Street, and access to the commercial unit off Usher's Quay.

In a response to an additional information request the height was reduced to 23.5 metres on the Usher's Street frontage. Among the attached conditions was a requirement for modifications to the proposed finishes.

**P. A. Reg. Ref. 4496/06:** Permission was granted for demolition of 1A and 2 Usher Street (stated site area 237sqm) and the construction of a six-storey mixed use building comprising ten apartments on first to sixth floor levels with setbacks at sixth floor and with access from stair core and lift from Usher Street and at Ground floor. light industrial use for a printing company.

**P. A. Reg. Ref. 2974/03:** Permission was refused for a change of use of offices in the existing block to fourteen apartments; incorporating construction of an additional two 2 floors at 29-30 Ushers Quay,

**P. A. Reg. Ref. 3196/99:** Permission grant permission was granted for office/light industrial development consisting of office accommodation at 1st & 2nd floor levels (total area: 401 sq. m.), over light industrial at ground and basement levels (total area: 396 sq. m.), including 2 No. parking spaces, and a delivery bay access via the basement of approved neighbouring development (Reg. Ref. No.: 0895/99), including the part refurbishment / retention of No. 1A Usher Street and the demolition of No. 2 Usher Street, at site bounded to the west by Usher Court, to the north by No. 1 Usher Street and to the south by No. 3 - No. 10 Usher Street. no. 2 Ushers Street.

**P. A. Reg. Ref. 3320/99:** Permission was granted for a three storey over basement office building. (area 191 sq. m.) On site of existing derelict house at No. 1. Ushers street, Dublin comprising the retention of the front facade and other elements of the structure.

## 5.0 Policy Context

### 5.1. Development Plan

The operative development plan is the Dublin City Development Plan, 2016-2022 according to which the site location is within an area subject to the zoning objective: *Z5: “consolidate and facilitate the development of the central area and to identify reinforce, strengthen, and protect its civic design character and dignity’.*

According to Section 14.8.5, the primary purpose of the zoning objective is ‘to sustain life within the centre of the city through intensive mixed use development’ and ‘to provide a dynamic mix of 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. ideally, the mix of uses should occur both vertically

through the floors of the building and horizontally along the street frontage. A general mix of uses including residential is desirable; however, retail should be the predominant use at ground floor level on principal shopping streets.

The site is partially within the City Quays Conservation Area (The site location is not within any statutory Architectural Conservation Areas, the Thomas Street and Environs ACA being circa 250 metres to the south.)

Policy Objectives CEE 12 and CEE 13 provide for the promotion and facilitation of tourism and support for additional tourism at accommodation at appropriate locations.

Development Management policies and objectives for infill development are set out in section 16.2.2.2

Policies and objectives for Building heights are set out in section 16.7.2

The site location is within the area of the Strategic Development and Regeneration Area 16. (SDRA16) (Liberties including Newmarket and Digital Hub)

SDRA 16 provides for the Liberties Local Area Plan, 2008 (LLAP) which provides for multiple strategic and specific objectives inclusive of public realm and amenity improvements (MUGA) and enhancements, with the existing soccer and small basketball pitch and hard and soft landscaping integrated with parking being among them.

According to Chapter 7. 2, (Significant Redevelopment Sites Vicar Street and Iveagh Markets) of the LLAP the indicative building height for the area is six to eight storeys.

## 5.2. Strategic Guidance

- 5.2.1. Policies and standards for building heights are in “*Urban Development and Building Heights: Guidelines for Planning Authorities*”, 2018, particularly the criteria set out in section 3.2 issued under Section 28 of the Planning and Development Act, 2000 as amended.



## 6.0 The Appeals

### 6.1. Grounds of Appeals

6.1.1. Four appeals were lodged on behalf of the following parties.

An Taisce (prescribed body)

KOD Lyons Solrs. (John O'Doherty) Block 3, Usher's Court.

Peadar McCormack. Blocks 4 and 5, Usher's Court.

Quest Computing Blocks 1 and 2, Usher's Court.

6.1.2. The appeal of An Taisce is outlined below followed by an outline of the other three appeals by KOD Lyons Solrs, Peadar McCormack and Quest Computing. These parties are occupants of Usher's Court to the west side of the application site. These appeals are similar with the exception of some issues specific to one of the appellant parties.

#### 6.1.3. Appeal by An Taisce.

An appeal was received from An Taisce, (prescribed body) on its own behalf on 9<sup>th</sup> November, 2020. According to the appeal:

- There is no justification for hotel use instead of the permitted residential use. Hotel use is not sustainable or justified in view of the shortage of residential accommodation for residents in the city whereas the previously permitted development under P. A. Reg. Ref. 3328/18 is appropriate.
- The proposed use is contrary to the Living City Initiative and the need at this time for a large hotel is questionable with no resolution to the evaporation of the tourism sector in sight at the moment.
- The height and design are entirely unsatisfactory but a good quality development is feasible for the prominent site. The permitted development under P. A. Reg. Ref. 3328/18 is seven storeys having been reduced from eight in a further information submission. It pushes the height to the limits for the Liffey Quays Conservation area. The current proposal for a new use

should at least be within the envelope of the permitted building whereas it is to have eight storeys.

- While the Urban Height and Buildings Guidelines 2018 allow for height the physical context of the Liffey Quays has remained unchanged. The height and design would seriously injure the historic Liffey Quays, contrary to the previous permitted redevelopment and the provision for the Conservation Area, protected structures and protection of views and landmarks. The corner site location is prominent and halfway between two historic bridge. Along the Liffey Quay's historic townscape. There are several protected structures, The Fr Mathew Bridge, to the east and Mellowes Bridge to the west and on the opposite side of the river, St Paul's Church on Arran Quay. These structures are within the visual curtilage of the application site with the Four Courts a little further in views to the west the setting of which should be respected by the proposed development. The proposed building is visible in the context of the Four Courts of these structures including the Four Courts in views west.
- While the subject site is zoned 'Z5', the urban block in which the Four Courts is located as far as Fr Mathew Bridge is very sensitive is zoned Z8 (*"to protect the existing architectural and civic design character and allow for limited expansion consistent with the conservation objective"*). The overall setting of pertaining areas is to be protected according to in section 14.8.8 of the CDP. A similar principle is to be found in sections 13.8.2 13.8.3 of *Architectural Heritage Protection: Guidelines for Planning Authorities* (DOEHLG 2005) and Policies CHC2, CHC4 for protection and enhancement of important vies and view corridors in and out of the city and existing landmarks. The proposed development is in entirety contrary to Policies CHC2, CHC4, SC7 and section 14.8.8 of the CDP and a Section 13.8.2.3 of *Architectural Heritage Protection: Guidelines for Planning Authorities*. (DOEHLG 2005)
- The proposed eight-storey block fundamentally adversely changes the characteristics of the Quays of regular terraced building blocks of 3-5 storeys retaining an overall consistency to the quays and subservience to the monuments which should be retained as an effective backdrop for the important monuments on the Quays such as Custom House the Four Courts in preserved riverside vistas

- The design proposed is also of different design to the permitted development having regard to the initial proposal for a chequered pattern of windows and ceramic in the façades proposed as a landmark. The further information modifications are typical of urban renewal driven 4-5 storey pastiche development of the 1990s except for the increased height. The building is monolithic and oversized with repetitive barracks like' elevations which would be visually obtrusive and insensitive to the Conservation Area.

#### 6.1.4. Appeals by:

**KOD Lyons Solrs. (John O'Doherty) Block 3, Usher's Court.**

**Peadar McCormack. Blocks 4 and 5, Usher's Court and,  
Quest Computing Blocks 1 and 2, Usher's Court.**

The three Appeals received from Virtus on behalf of the appellant parties on 10<sup>th</sup> November, 2020 are outlined below.

- The scale and massing of the proposed hotel development is excessive and it is one storey higher than the apartment development permitted under P.A. Reg. Ref. 3328/18.
- The proposed development would cause undue overlooking, overshadowing and overbearing impact and intrusiveness on Blocks 1 and 2, 3 and 4 and 5 Usher's Court and the communal courtyard.
- Clarification is necessary on the impact of the proposed development on the Nos 4 and 5 and No 3 Usher's Court to the east of the western boundary which would be directly overlooked from bedroom windows at the eastern end of the west elevation. This would affect development potential of the Usher's Court such as future adaptation from office use as residential use. (four windows are identified - Figure 2) The windows on the first and second floor levels have clear views into Blocks 4 and 5 and overlooking from the third to sixth floors would occur if Blocks 4 and 5 and Block 3 were extended upwards. A similar situation would arise with regard to Block 3 with regard

also to light and overshadowing. Retaining the west elevation windows for bedroom Nos 15 and 16 on all floors within the hotel development affects to the potential residential and commercial development in line with the Z5 zoning and SDRA as provided for in the CDP.

- According to the appeal of Quest Computing, owner occupier of Blocks 1 and 2 omission of windows serving Bedroom No 12 at sixth floor level and No 7 on the seventh floor is necessary. The landing and lobby windows would have clear views into three floors on the south elevation of Blocks 1 and 2 Usher's Court affecting the block's development potential. If extended upwards in the future with three floors of residential accommodation there would be clear views into it from the lobby windows on the third to seventh floors of the proposed development.
- Similar issues also arose as to proximity and impact on development potential in connection with the application for hotel development at No 22 Stephen's Green (a protected structure subject to the Z5 zoning objective.) P. A. Reg. Ref. 2930/07 / PL 224412 refers.) whereby the decision to refuse permission was upheld following appeal.
- The windows for Rooms 13 and 14 from the first to the seventh floor would look into the private courtyard at Usher's Court in front of Blocks 4 and 5 and Block 3 and at the rear of Block 1 and 2. The 28-unit apartment development permitted under P. A. Reg. Ref. 3326/18 has no western elevation habitable windows. Windows on the west elevation were core stairwell landing windows which are recessed three metres.
- Clarification on the impact of the proposed development on the west boundary wall of the site. The ownership interest should be clarified as regards the wall, which appears to be intended for removal. The ability for construction directly on the boundary with access over third party property require clarification.
- Clarification on Mitigation measures Noise and odour impacts from the ground floor kitchen on the west elevation is required. There are no operational conditions regarding control of odour and noise attached to the decision to grant permission. An internal vent terminates one metre above roof level and a secondary extractor fan ventilation system is not shown. Intensive use of a

hotel kitchen as potential odour and noise from the extractor fan and the vent which would affect the Blocks in Usher's court and the communal courtyard. The windows should be at a central location and not adjacent to the front elevation and entrance to Blocks 4 and 5 and 3 Usher's Court.

- There are no details as to protective measures during construction and demolition stages for the four allocated car space adjacent to the western boundary of the site. The construction and demolition management plan required under Condition No 9 (b) of the decision to grant permission should include details of measures for their protection.
- With regard to vibration and noise and ground movements 3.2 metres excavation below ground is required and the impacts of the basement construction on Usher's Court are not adequately considered. There is insufficient detail in the applicant's submissions. The condition surveys and monitoring and readings during excavation are welcome but the basement impact assessment report and outline CMP are not specific about vibration impacts and vibration impact mitigation and the measures for protection of adjoining structures. Condition No 16 attached to the decision to grant permission with the requirement for compliance with BS 5228 – Part 1 is noted but this BS also includes procedure for vibration control.
- The proposed development is out of character with the surrounding context especially in negative impact on the Liffey Corridor.

## 6.2. Applicant Response

6.2.1. A submission was received from the applicant's agent on 10<sup>th</sup> December, 2020.

6.2.2. In the submission the applicant indicates a willingness to provide for minor changes to the proposed development, mainly to the internal and west facing elevation to improve the amenities of the properties at Usher's Court. (Drawings are attached.) The proposals include provision for an increased size courtyard inside the site boundary to provide for a light well and, amendment to staircore, removal of windows on west faced. As a result, the number of rooms is reduced from 106 to 100. Minor amendments to the windows on the front elevation are also included to facilitate the internal modifications. Although these modifications are considered unwarranted,

they are acceptable and could be implemented by way of compliance with conditions.

6.2.3. In the appendix to the appeal submission a detailed summary review of national and regional policy and local strategic and local policy as provided for in the CDP is provided incorporating evaluations of consistency.

6.2.4. Included with the submission are: Revised Drawings, a supplementary document addressing the appeals and full details the minor modifications included which the applicant would be willing to implement, copies of correspondence with the City Council's enforcement section relating to the demolition of the existing buildings on the Usher's Street frontage. A statement by Renaissance Engineering with regard to odours and noise, a revised outline construction management plan (Barrett Mahony) a statement by Amoss Solicitors relating to the title over the site and the right of way over the courtyard at Usher's Court, and a statement by Rob Goodbody, Historic Building Consultant.

6.2.5. The submission can be outlined as follows:

- With regard to justification for the proposed hotel use:

The application is not for a change of use to hotel from residential use. As residential use has not been established for the site it is unreasonable for the application to be accessed against the recently permitted development (P.A. Reg. Ref. 3328/18 refers). Residential use is one of several permissible uses under the 'Z5' zoning objective. The proposal should be considered in the context of the zoning objective and associated policies. The use mix is appropriate both vertically and horizontally for the small site which would sustain activity during weekends and evenings.

Notwithstanding the extant permission the local authority and prescribed bodies support redevelopment for hotel use with an ancillary restaurant and public bar as proposed. The further information submission addressed the initial concerns about compliance with the Z5 zoning objectives, the justification with regard to existing serviced apartments and aparthotels and elevation treatment.

The submitted **justification report** for the proposed hotel development demonstrates:

undersupply of hotel accommodation and lack of tourism accommodation in the immediate area in which are several tourism attractions.

the impact on the area by prevalence of Airbnb short-term letting (436 properties in the immediate area) removing permanent accommodation availability which can be addressed by affordable hotel rooms),

that transience is not encouraged by additional hotels as they counteract short-term letting of permanent housing stock the majority of hotel accommodation is located in Dublin 1 and 2 with 3443 of the 8557 rooms being within the “budget” prices with the current proposal providing affordable accommodation and delivery of the hotel coincides with the return to pre COVID demand for accommodation.

That not all of sixty-three permitted hotel, apart hotel /serviced apartments and hostels (9 are located in the Liberties) have been commenced and the current proposal is not speculative and is backed by “Premier”.

Existing and potential housing stock for the area is not undermined by the proposed development in that the wider aim of increasing residential provisions not compromised by the proposed development. Hotel use is a positive contributor rather than a threat to supply of housing stock. There is potential for the addition of circa 6418 residential units to the existing 5117 dwellings in the area within 500 metres of the site location.

The planning officer notes the positive contribution in delivery of Policies CEE12 and CEE13 for delivery of tourism infrastructure and promotion of the city as a world class tourism destination, and, with regard to housing stock, the ability of a hotel to reduce the prevalence of use of permanent residences as Airbnb accommodation and the

positive effect of the contemporary design and form, enhancement of the surrounding area and contribution to economic viability.

The proposed development accords with and contributes to delivery of strategic aims in the National Planning Framework (NPF especially NPO 4, NPO 5, NPO6, NPO11 and NPO 13. and the zoning and development management standards in the CDP.

- The hotel development is not contrary to the **Living City Initiative** and it contributes to permanent living communities. The proposed use in the or of a hotel, bar and a restaurant are sustainable and appropriate to the zoning and location. It is not a requirement to include a residential component.
- With regard to **design, scale, height and massing**, the current proposal accords with the CDP and LAP. The height rises to 23.8 metres at its highest point with an eighth floor being achievable whereas the prior permitted proposal under P. A. Reg. Ref 3328/18. (Height is not measured by the number of storeys.) The additional storey has no additional impact and the building height. Mass and bulk and materials were accepted by way of the prior grant of permission. The articulation in the design and selection of materials are an attractive and appropriate architectural solution as acknowledged in the planning officer report.
- With regard to impacts on **the Quays Conservation Area**, protected structures, and views. Similar concerns of An Taisce were raised and assessed by the planning authority in connection with the permitted development under P.A. Reg. Ref 3328/18. Specialist advice was sought on the appellant party's concerns and the advice was that conservation issues were bring introduced to bolster objection to the building without a clear rationale and that as the permitted development is the same height the objections are not relevant. The planning officer has indicated that the revised further information proposal is acceptable as modern infill at the location.



- With regard to **overlooking, overshadowing and visual intrusiveness** in the courtyard of Usher's Court:

The claims in the appeal are overstated, and not justified for the city location which is subject to a mixed-use zoning objective.

The buildings which have been removed from the site had windows overlooking the courtyard and the existing buildings have windows overlooking the semi-private courtyard and parking area. The proposed windows would provide activity and interest to the courtyard views and passive surveillance especially outside working hours.

A new elevation will be provided onto the courtyard which at present is flanked by commercial buildings mainly and overlooking should not be considered a concern in relation to commercial use. No 34 Usher's Quay at the far western end has apartment which are circa twenty-five metres from the western elevation of the hotel as proposed. The submitted, Daylight and Sunlight Analysis carried out in accordance with BRE: *Site Layout Planning for Daylight and Sunlight – A guide to Good Practice* (2<sup>nd</sup> edition - BRE) demonstrated no negative daylight or sunlight impact.

- With regard to **entitlement to access over the courtyard** at Usher's Court the applicant has a legal right of way over the courtyard at Usher's Court so claims as to impact of the proposal on the development potential of the courtyard would have regard to the legal right of way. Therefore, the development potential is not likely to be diminished. Reference is made to the copy of the letter (Ammos Solicitors) included with the attachments to the submission.
- With regard to the **west boundary wall to the site**, it is claimed that the existing structure is within the applicant's ownership. Reference is made to the copy of the letter (Ammos Solicitors) included with the attachments to the submission.
- With regard to **Noise and Odour impacts on Usher's Court**, it is stated that the design for the ventilation and extraction system includes mitigation to ensure minimal impact on surrounding development. The exhaust fan for the

kitchen extraction is to be located on the roof. Reference is made to the letter (Renaissance Engineering Ltd) included with the attachments to the submission. A suitably worded condition to include formal agreement with the Environmental Health Department would be acceptable to the applicant if permission is granted.

- With regard to **vibration and ground movements** impacts, reference is made to the submitted outline construction management plan (Barrett Mahony) included with the application which has been updated and in section 7.3 and 7.4 where details of appropriate monitoring and measures protection of adjoining properties are provided. The applicant accepts the requirement under condition 9 (b) attached to the decision to grant permission for a demolition and construction management plan to be submitted by the main contractor before commencement of the development. However, the buildings at Nos 1, 1A and 2 Usher's Street were demolished in summer 2020 for health and safety reason as provided for emergency legislation notwithstanding the extant permission for their demolition.
- With regard to the **impact on the allocated car spaces** within the courtyard at Usher's Court, it is confirmed that protective measures are provided for in Section 5.3 of the outline construction management plan (Barrett Mahony) included with the submission and that the applicant is willing to accept a relevant condition in this regard.

### 6.3. Planning Authority Response

There is no submission from the planning authority.

### 6.4. Observations

- 6.4.1. A submission was received from **QEC Ltd.**, of 15-21 Usher's Quay on 10<sup>th</sup> November, 2020. According to the submission there is an oversupply of hotels and a lack of residential accommodation on the Quays. There are also concerns as to the precise use of the proposed hotel because apart hotels and hotels in the area ((at 13 Usher's Quay and at 42-76 Usher's Quay) have been used to house the homeless

which along with the Merchants Quay centre gives rise to concerns about the effects of drug addiction on the area's residents and commercial businesses.

6.4.2. A submission was received from **QEC Ltd.**, of 15-21 Usher's Quay on 15<sup>th</sup> January, 2021. According to the submission:

There are twenty hotels within a half mile radius of the development and there is an oversupply in the Quay area whereas residential development is required.

There would be additional traffic generation and there is a lack of parking and turning facilities for the area which would adversely affect residential development in the area.

The hotel may encourage anti-social behaviour in the area due to alcohol and drug addiction.

Noise and pollution and disturbance will affect residential amenity. The hotel size is too big and along with the design is incompatible with local building typology.

## 6.5. Further Responses

6.5.1. Further submissions were received from the four appellant parties:

An Taisce (prescribed body)

KOD Lyons Solrs. (John O'Doherty) Block 3, Usher's Court.

Peadar McCormack. Blocks 4 and 5, Usher's Court.

Quest Computing Blocks 1 and 2, Usher's Court.

## 6.5.2. Supplementary Submission of An Taisce

A submission was received from An Taisce on 15<sup>th</sup> January, 2021. Attached is a detailed statement prepared by Frank McDonald comprising elaboration on and support for the appeal. It comprises a detailed commentary and rebuttal of the applicant's case as set out in the planning reports prepared by the applicant's agent. The case made in the appeal and further submission as outlined below:

- The proposed development is contrary to the CDP especially section 16.2.2.2 (infill) The LAP for the Liberties is erroneously interpreted and applied with regard to the impact on the Quays, building heights and key views. The Liffey Quays are of critical importance within the Liffey Quays Conservation Area. In giving topographical coherence of the city which is intrinsic to building height and form.
- The former three storey warehouse building on Usher Street (No 2) should not have been dismissed as was the case with the historic building consultant report submitted by the applicant.
- There is no need for a hotel on the site or in the area. the content of the submissions provided by the applicant being rejected. The planning authority was erroneous in granting permission for the previous proposal under P. A. Reg. Ref. 3328/18 submission:
- A more streamlined approach to the response to the appeals would have been more appropriate than the multiple documents provided which have loose relevance to the appeal issues.
- There are several errors in the Historic Building Consultant report included with the application, with regard to designation of conservation areas and the associated policies and objectives in the CDP The claim in the appeal as to the historic scale, relationships between the landmark and other buildings in the quays, as to identification of a visual curtilage and as to inappropriateness, dominance and obtrusiveness of the proposed development in this context and the key views along the historic corridor along the Liffey are reiterated. The contentions the response to the appeal to the contrary are rejected.
- The attempt to fit the eight-storey block into the envelope of the permitted seven storey block results in an out of scale and discordant impact on the quays with unworkable internal ceiling heights.
- Hotel development is excessive in the area and hotel use is not an acceptable change from permitted residential development which contribute to the vitality of the city and mix of uses.

- Reference is made in the submission to the content relating to the impact on the historic Liffey Quays corridor of the other third-party appeals lodged on behalf of occupants of Usher's Court.

### 6.5.3. **Supplementary Submissions of**

**KOD Lyons, Solicitors.**

**Peadar McCormack and,**

**Quest Computing**

Similar further submissions were received from Virtus on behalf of the three appellant parties and the contents are outlined below:

- The contention that overlooking of the courtyard will not occur is disingenuous and overlooking from the appellant parties' properties is minimal and not comparable to overlooking from a hotel.
- The claim as to negative impact on the future development potential, especially possible residential development at Usher's Court and the courtyard is reiterated.
- The claim as to a right of way over the courtyard is refuted and rejected.
- The submitted sunlight and daylight analysis only has assessment of daylight impact on No 34 Usher's Quay instead of the more sensitive receptors. And there is no assessment of vertical sky component although some overshadowing studies are included.
- The applicant is not in sole ownership of the wall on the site's west boundary. It is a party wall which is jointly owned. The statement provided from Amoss Solicitors is insufficient and unclear regarding the legal interests and there is reliance on "assurances". Consent was not sought from the Appellant parties for the removal of the wall and no consent would be given. Consent would not be given for erection of scaffolding as provide for in the Outline Construction Management Plan access for which would be through the appellants' property. This requirement confirms that the development cannot be implemented without reliance on third party lands.

- The suggested amendments to the scheme in the applicant's submission are an improvement but significant issues remain: Overlooking from Windows 13, 14 and 15 of the appellant parties' properties and the shared courtyard at Usher's Court would not be overcome. The larger internal courtyard with a lightwell is not dimensioned on the lodged drawings so assessment is curtailed. In the event that permission is granted it is requested that a condition with the following suggested terminology be included.

*“The proposed development shall be amended by the applicant to provide that windows to bedrooms 13, 14 and 15 on the typical floor plan are redesigned to ensure that they do not overlook the property and courtyard to the west. Such measures shall be implemented on all floors of the proposed development, with the exception of ground floor. There shall be no west facing windows in the eastern elevation. Clarity shall be provided on the exact dimensions of the proposed courtyard adjacent to bedrooms 13, 14 and 15 on the typical floor. There shall be no access, other than for maintenance to the courtyard within the proposed development. Amended proposals shall be submitted to Dublin City Council for written agreement and approved prior to the commencement of development.”*

Overlooking from room Nos 13, 14 might be achieved by (1) extension of the courtyard to provide a lightwell between rooms 13 and 14 with windows having a northerly and southerly aspect respectively or (2) relocation of the stairwell to the location of Rooms 13 and 14 with no windows to the stairwell, being required.

## **7.0 Assessment**

- 7.1. The application is for a hotel development incorporating a public bar and restaurant on the site incorporating bar and restaurant facilities at the ground level which would be open to the public and which, according to the application is to be operated by Premier Inn and Whitbread Plc. The site has the benefit of an extant grant of permission for demolition of existing structure and construction of an apartment development in a seven-storey block. There are four third party appeals, one of

which is from An Taisce and the other three appeals and an observer submission are by occupants of blocks within Usher's Court, to the west of the site which are located around a communal courtyard. In the further information lodged with the planning authority, some modifications were made and in the response to the appeal, some additional modifications are also provided for consideration in the event that the proposed development as shown the additional information unacceptable.

- 7.2. The proposed development as modified in the further information submission is considered below with references to the submissions available in connection with the appeals, including minor modifications indicated in the applicant's response to the appeal which the applicant considers unwarranted but is willing to implement if required.
- 7.3. The issues central to the determination of a decision, having regard to the appeal and the planning history are considered below, under the following subheadings.

Demolition of existing structures

Justification for hotel use: zoning and strategic objectives.

Visual impact; architectural heritage.

Impact on adjoining properties at Usher's Court, (overbearing, overshadowing, and overlooking)

Impact on residential amenities of surrounding properties.

Odour and Noise; Extraction and Ventilation

West boundary and rights of way and access.

Excavation and Construction - Vibration and ground movements

Environmental Impact Assessment Screening

Appropriate Assessment Screening

**7.4. Demolition of existing structures.**

- 7.4.1. It is noted, having regard to the planning history, that permission was previously granted for the demolition of the warehouse building and the two Georgian houses which stood on the plots at Nos 1, 1a and 2 Usher's Street. Although the most

recent grant of permission has not been taken up, the applicant has provided copies of relevant correspondence with Dublin City Council in connection with entry onto the Derelict Sites Register and in connection with the condition of the buildings prior to their demolition. Having regard to the foregoing, notwithstanding the merits of these buildings as to significant special heritage interest as pointed out in the appeal of An Taisce, the decision reached with regard to demolition has been previously determined separately from the assessment of the current application.

#### **7.5. Justification for hotel use; zoning and strategic objectives.**

- 7.5.1. At the outset, it is agreed, as stated in the applicant's submissions that the application is not for "change of use" to hotel from residential use as contended in the appeals in that the extant grant of permission has not been taken up and the use of the remaining existing building was not residential use. In this regard, the extant grant of permission for residential use under P. A. Reg. Ref. 3328/18 is irrelevant and the current proposal should be considered on its own planning merits.
- 7.5.2. The justification for the proposed development within the hotel justification assessment report and supplementary submissions are very comprehensive and thorough with regard to; the range and extent of information provided on the entire range of budget visitor accommodation and primary and secondary sources and consistency with the strategic economic and employment policies for the central business district, particularly with regard to tourism infrastructure as provided for in the current CDP, in particular Policies CEE12 and CEE13.
- 7.5.3. The nature of the development is consistent with the "Z5" mixed use zoning objective and Section 14.8.5 of the CDP, particularly in providing for public bar and restaurant facilities which contribute to vitality and live street frontage. As such it is agreed with the planning officer that the supply of the proposed development's hotel would be effective towards achievement of retention of housing stock for permanent occupation and reducing demand for short-term rentals.
- 7.5.4. Should permission be granted, for the purpose of clarity with regard to the nature of use appropriate conditions can be attached, if deemed necessary, to ensure appropriate management arrangements so that any possible future proposals for a change in the nature of use would be subject to planning review through a separate



planning application. It is not accepted that there are substantive planning grounds on which rejection of the proposed hotel use.

## **7.6. Visual impact - architectural heritage.**

- 7.6.1. The application site has the benefit of an extant grant of permission demolition of the existing buildings and construction of a seven-storey block on the site having regard to the provisions of the current CDP. As such, it has been established that a seven-storey block, extending to circa twenty-four metres in height has, in principle been accepted. Thus, the basis for the assessment of the current proposal, is restricted to consideration of the proposed block on a comparative basis with the permitted development. At application stage, the proposed development as modified in the further information submission at the request for the planning authority is considered below.
- 7.6.2. While the current proposal is for a seven and eight storey block as opposed to a seven-storey block as previously permitted, it is noted that the limited increase in overall height is achieved by reduced internal floor to ceiling heights. The original plots are recognised in design detail and use of contrasting finishes, along with Georgian typology by way of vertical emphasis in the facades and fenestration and continuity in the parapet line in the modified further information proposals which are considered acceptable.
- 7.6.3. The block without doubt would be visually very dominant at the prominent corner site location in the streetscape along the south side of the Liffey Quays in scale, proportions and in height, which exceeds that of the block to the west. The articulation in the façade treatment as discussed above has some ameliorative impact to the overall dominance in views in which the Usher's Street frontage comes into view at the street corner beyond Oliver Bond House and from the opposite side of the river. (Views 4-8 in the submitted CGIs refer.) On approach from east to west on the south side of the Quays towards Usher's Quay, the proposed block would in effect 'bookend' the views towards the frontage onto the south side of the Quays which is in the vicinity are of limited merit. (Views 1-3 in the submitted CGIs refer)
- 7.6.4. However, as clearly demonstrated in the appeal submissions of An Taisce, the sensitive architectural historic context is very much centred on the individual and groupings of buildings overlooking the quays and river from the north side.

- 7.6.5. Notwithstanding the height the relatively narrow and simple façade with vertical emphasis facing onto Usher’s Quay ameliorates the massing impact and assimilates reasonably well into the streetscape in views on approach from east and west along the north quays and on approach along Arran Street. (Views 4-8 in the submitted CGIs refer.) The height relative to the predominant height parapet height along the Quays contributing to the streetscape character is such that the block would have a profound adverse visual impact on the historic integrity, hierarchy and context of the streetscape and the principle historic buildings included on the record of protected structures which in the area, are predominantly on the north side of the Quays.
- 7.6.6. Furthermore, it must be borne in mind that there is little substantive difference between the prior permitted development and the current proposal in this regard and as such the issues raised in this regard in the appeals were therefore previously considered. It is considered that the proposal would not be in conflict with the Liffey Quays Conservation Area, would facilitate achievement of the policy objectives of the Z5 zoning objective and section 14.8.5 and regeneration as provided for Strategic Development Regeneration Area Liberties and Newmarket) in the Liberties LAP (SDRA16).
- 7.7. Impact on adjoining properties at Usher’s Court, (overbearing, overshadowing and overlooking.)**
- 7.7.1. Three of the appeals were lodged on behalf of occupants of Blocks 1 and 2, Block 3 and Blocks 4 and 5 of Usher’s Court a multiple occupancy commercial development within blocks around a shared courtyard to the west side of the application site.
- 7.7.2. It is considered that undue overlooking and overshadowing are not a central issue given that the location is not in a residential area with associated development objectives and policies. The site is a brownfield site at a central city location, the scenario prior to the demolition of the existing buildings (hereby there was reciprocal overlooking between the Usher’s Court blocks and courtyard and the former buildings, the prevailing commercial use of the Usher’s Court development, and the Z5 zoning objective in which ‘residential’ is one of a multiplicity of permissible uses. Stringent application of standards as provided for in residential areas would undermine and hinder development potential at high intensity central business district serviced sites such as the application site.

7.7.3. However, the appellant parties are most concerned as to adverse impact in the event of possible future redevelopment at Usher's Court entailing change of use to residential use and additional development vertically, by way of the addition of some floors to the existing blocks. Possible future residential development of the nature described in the appeals is not an unreasonable consideration although there is no record of any planning applications on the Council's planning register for either Usher's Court or Usher's Quay since 2008.

7.7.4. Bearing the foregoing in mind, the considerable height of the proposed development, multiplicity of floors and windows in the west elevation is a major change to the immediate context of the courtyard and blocks at Usher's Court.

7.7.5. The minor modifications which the applicant would be willing to implement if required, included in the response to the appeal involving rearrangement of accommodation and fenestration on the west façade are considered inessential from a planning perspective. However, these modifications are welcomed by the appellant parties as being partly effective in addressing their concerns although they propose some additional requirements.

#### **7.8. Impact on residential amenities of surrounding properties.**

7.8.1. There is a residential element at No 34 Usher's Quay at the western end of Local Government House (Nos 34-39 Usher's Quay) circa twenty-five metres from the west site boundary. It is noted that windows are not directly opposite the west facing windows for the proposed development and the distance and footprint relative to the proposed hotel development is such that undue overshadowing would not occur.

7.8.2. It is considered that the development would not give rise to undue overlooking or overshadowing of Oliver Bond House the four storey apartment blocks located to the east and south on the opposite side of Usher's Street and a relatively recently constructed apartment development in six floors, the sixth being a setback floor with commercial use at ground level on the adjoining site to the south side of the application site. Similarly, subject to good management the hotel, restaurant and bar use which are appropriate to central city 'Z5' zoned areas, should not give rise to any undue concerns as to noise and nuisance.

7.8.3. Similarly, noise and disturbance or congestion arising from traffic generated by the hotel is unlikely to occur. No vehicular access off Usher Street or onsite parking is

proposed, and a satisfactory mobility management plan having been provided with the application. The location of the entrance on the Usher's Quay frontage discourages traffic circulation and stopping off along Usher's Street. Similarly, no on-site parking was included for the permitted development of twenty-eight apartments under P. A. Reg. Ref. 3328/18 which was acceptable to the Transportation Planning Division and to the Planning Officer.

#### **7.9. Odour and Noise; Extraction and Ventilation**

7.9.1. The design for the ventilation and extraction system for the kitchens whereby the extraction fan is to be located at roof level is such that concerns as to adverse impacts from extraction, odours or noise affecting adjoining properties, which are in commercial use do not arise. Technical standards relating to the operation and maintenance of the system comes under a separate code, which is managed in accordance with separate legislation applied by Environmental Health services. Subject to adherence to the relevant technical standards, the proposed arrangements as indicated in the application submissions, it is considered that the proposed arrangements would not give rise to adverse impact on the amenities of adjoining properties. It is noted that that applicant is willing to accept a condition relating to the proposed arrangements for extraction.

#### **7.10. West site boundary and rights of way and access.**

7.10.1. The Appellant parties disagree with the assertion that the applicant has the benefit of a right of way over the courtyard in Usher's Court and as to the ownership of the wall at the west boundary of the site adjoining Usher's Court. The applicant's agent claiming sole ownership outright whereas the appellant parties' agents claim that the wall is a party wall under the control of Ushers Court and the applicant. This is a matter of legal dispute between the parties.

7.10.2. However, no documentary evidence to support the parties' claims have been made available in the documentation made available in the submissions lodged on behalf of the applicant or the appellant parties. It is of note that should it be confirmed that the applicant does not have sole ownership and control of the wall at the west side of the site and a right of way over the courtyard, the applicant might be hindered and/or precluded from the ability to implement the development or associated works at the west boundary and access for construction and maintenance purposes. As stated

in section 34 (13) of the Planning and Development Act, 2000 as amended, a grant of planning permission be granted, does include legal entitlement to implement the permitted development.

#### **7.11. Excavation and Construction - Vibration and ground movements**

- 7.11.1. The previously permitted apartment development under P. A. Reg. Ref. 3328/18 did not include provision for a basement whereas the current application which includes a single basement which involves excavation, (during which embedded retaining wall is to be in place) to a depth of circa 3.2 metres, well above groundwater levels for which a comprehensive basement impact assessment report incorporating a damage assessment has been provided. It is considered that the details provided on scoping, construction methodology and design and incorporated mitigation measures for protection of the drainage network, SUD for collection and attenuation of waters, vibration control and limitation of ground movements indicate that excavation and construction would not give rise risk of adverse impacts.
- 7.11.2. The appellant parties have indicated concerns as to the adequacy of the Outline Construction Management Plan and Construction and Demolition Waste management plan included provided. However, generally these submissions are considered reasonable and sufficient subject to a comprehensive plan being prepared and submitted for the written agreement of the planning authority following appointment of a contractor and prior to commencement of development. It is reasonable that further to appointment of a contractor a comprehensive methodology along with mitigation and management measures are provided for in comprehensive construction and demolition management plan, subject to agreement with the planning authority by condition.
- 7.11.3. In the event that permission is to be granted for the proposed development inclusion of an archaeological monitoring condition would be necessary given the observations and recommendations in the City Archaeologist's report.

#### **7.12. Environmental Impact Assessment Screening.**

- 7.12.1. Having regard to the nature of the proposed development and its location in a serviced urban area, removed from any sensitive locations or features, there is no real likelihood of significant effects on the environment. The need for environmental

impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required

### 7.13. **Appropriate Assessment Screening.**

- 7.13.1. Having regard to the nature and scale of the proposed development, no appropriate assessment issues arise, the proposed development would not be likely to have a significant effect individually or in combination with other plans or projects on a European site.

## 8.0 **Recommendation**

In view of the foregoing, it is recommended that the planning authority decision be upheld and that permission be granted based on the reasons and considerations and conditions which follow.

## 9.0 **Reasons and Considerations**

Having regard to the Dublin City Development Plan, 2016-2022 according to which the site is located within an area subject to the zoning objective Z5: “*consolidate and facilitate the development of the central area and to identify reinforce, strengthen, and protect its civic design character and dignity*’ the primary purpose of which, according to section 14.8.5 is to sustain life within the centre of the city through intensive mixed use development and to Policy Objectives CEE 12 and CEE 13 which provide for the promotion and facilitation of tourism and support for additional tourism at accommodation at appropriate locations and to the planning history for the site, it is considered that subject to the conditions set out below, the proposed development would not seriously injure the visual amenities or historic architectural character of the Liffey Quays, would not seriously injure the amenities of residential properties in the vicinity, would not be prejudicial to public health or endangerment of public safety by reason of traffic hazard and would be in accordance with the proper planning and sustainable development of the area.

## 10.0 Conditions.

1. The development shall be and shall be carried out in accordance with the plans and particulars lodged with the application as amended by the further plans and particulars lodged with the planning authority on 17<sup>th</sup> September, 2020 and with An Bord Pleanála on 10<sup>th</sup> December, 2020 except as may otherwise be required in order to comply with the following conditions Where such conditions require points of detail to be agreed with the planning authority, these matters shall be the subject of written agreement and shall be implemented in accordance with the agreed particulars.

**Reason:** In the interest of clarity.

2. The developer shall facilitate the planning authority in the archaeological appraisal of the site and in preserving and recording or otherwise protecting 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.
  - (b) The developer shall retain a licensed archaeologist to carry out the archaeological requirements of the planning authority.
  - (c) The archaeologist shall provide a detailed impact statement based on the final development plans for consideration by the planning authority.
  - (d) The planning authority, in consultation with The National Monuments Service, shall determine the exact nature and extent of any archaeological excavation. That portion of the site shall be exposed in plan and reduced in toto. The uppermost overburden may be removed from the site by a machine with toothless bucket only under archaeological supervision. All in situ features, including post medieval, must be fully recorded prior to removal.

- (e) Once archaeological layers have been exposed, the ground shall be reduced as an archaeological exercise using archaeological hand excavation techniques. In the event of in situ articulated human remains or other significant archaeological deposits being located during the course of this work, the archaeologist retained by the developer shall immediately notify the planning authority and The National Monuments Service. Should such archaeological features be of great significance their preservation in situ shall be required.
- (f) The ground shall be reduced to the base of the archaeological deposits.
- (g) A finds-retrieval strategy shall be developed by the licensed archaeologist and submitted for agreement with The National Monuments Service and the planning authority, and
- (h) a written report containing the results of the archaeological excavation and post-excavation shall be submitted on completion to the planning authority and to The National Monuments Service.

In default of agreement between the parties regarding compliance with any of the requirements of this condition, the matter shall be referred to the Board for determination.

**Reason:** To conserve the archaeological heritage of the site, it is considered reasonable that the developer should facilitate and assist the planning authority in securing the preservation by record of any archaeological features or materials which may exist within it. In this regard, it is considered reasonable that the developer should be responsible for carrying out properly supervised archaeological excavations in circumstances where the permitted development works would be likely to result in the unavoidable disturbance or destruction of such features or materials.

3. The construction of the development shall be managed in accordance with a Demolition and Construction Management Plan, incorporating a Demolition and



Construction Waste Management Plan which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including details of:

Location of the site and materials compound.

Location of areas for construction site offices and staff facilities.

Site security fencing and hoardings.

Timing and routing of construction traffic to and from the construction site and associated directional signage.

Measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network.

Mitigation measures for noise, dust and vibration, and monitoring of such levels

Containment of all construction-related fuel and oil and,

Arrangements for storage and removal of construction and demolition waste and measures for management of surface water run-off.

Arrangements to ensure that during the construction and demolition phases, works are in accordance the standards in, British Standard 5228 *'Noise Control on Construction and Open Sites, Part 1. Code of practice for basic information and procedures for noise control.'*

A monitoring system and record of daily checks that the works are being undertaken in accordance with the Construction Management Plan shall be kept for inspection by the planning authority.

**Reason:** In the interest of orderly development, public amenity and safety.

4. Site development and building works shall be carried between the hours of 08.00 hrs and 19.00hrs, Mondays to Fridays excluding bank holidays, and 08.00 hrs and 14.00 hrs on Saturdays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

**Reason:** In the interest of residential amenities.

5. The hotel bedrooms and associated facilities and amenities shall be occupied solely in connection with the hotel use. They shall not be occupied for any other purposes within Part 2, or Schedule 2, Part 4 of the Planning and Development regulations, 2001 as amended without a prior grant of planning permission.

**Reason:** In the interest of clarity.

6. Prior to the commencement of the development, fully detailed Servicing and Operational Waste Management Plan shall be submitted to and agreed in writing with the planning authority. The plan shall include details for the management of waste, including the provision of facilities for the storage, separation and collection of the waste including recyclable materials and for the ongoing operation of these facilities shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the waste shall be managed in accordance with the agreed plan and monitored and reviewed by the operator of the development.

**Reason:** In the interest of the environment.

7. Prior to the commencement of development, detailed layout, design and specifications including marking, signage and layout of the proposed site access, loading bay, arrangements for storage or waste and cycle parking for a minimum of ten cycle spaces and pedestrian facilities shall be submitted to, and agreed in writing with the planning authority. These works shall be fully implemented prior to occupation of the development.

**Reason:** In the interest of pedestrian and vehicular safety and convenience.

8. Prior to the commencement of the development, a fully detailed Mobility Management Strategy shall be submitted to and agreed in writing with the planning authority. The strategy shall provide for incentives to encourage the use of public transport, cycling, and walking by patrons and staff and shall be operated, monitored and reviewed by the operator of the development.

**Reason:** In the interest of sustainable transportation and travel and the amenities of the area.

9. Prior to the commencement of development, details of the materials, colours and textures of all the external finishes shall be submitted to and agreed in writing with the planning authority. Sample panels shall be displayed on site for inspection by the planning authority.

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

10. Water supply and drainage arrangements, including the disposal of surface water incorporating Sustainable Drainage Systems 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.

11. The developer shall enter into water supply and wastewater connection agreements with Irish Water, prior to commencement of development.

**Reason:** In the interest of public health.

12. All service cables associated with the proposed development shall be run underground within the site.

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

13. Notwithstanding the exempted development provisions of the Planning and Development Regulations, 2001 (as amended), no additional development shall take place above roof level, including lift motors, air handling equipment, storage

tanks, ducts or other external plant or the erection of telecommunications equipment other than those already shown on the drawings submitted with the application, unless authorised by a prior grant of planning permission. In addition, the precise details of the proposed signage, size, materials, method of illumination if any proposed, shall be submitted to the planning authority for their written agreement prior to commencement of development, any additional signage shall be the subject of a separate planning application.

**Reason:** In the interest of visual amenity and residential amenities.

14. 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 of roads, footpaths, watermains, drains, 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 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 of the development.

15. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000. The contribution shall be paid prior to the commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to the Board to determine the proper application of the terms of the Scheme.

**Reason:** It is a requirement of the Planning and Development Act 2000 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.

**Jane Dennehy**  
Senior Planning Inspector  
25<sup>th</sup> February, 2021